

THE RATIONALE OF RATES

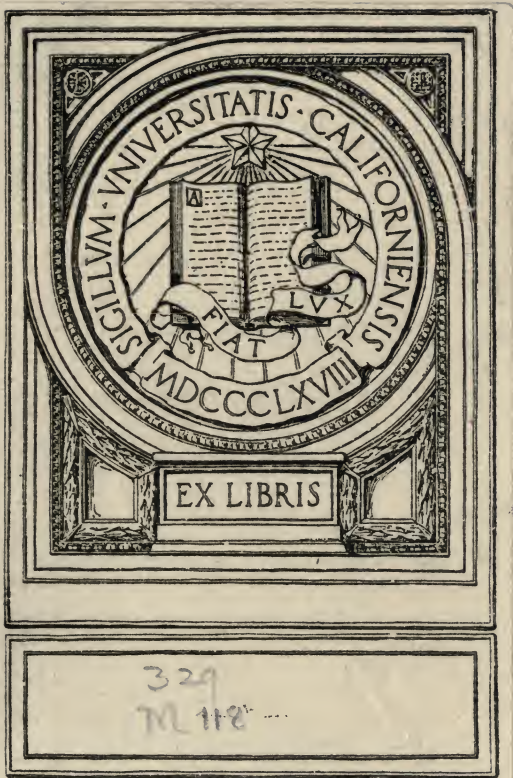
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A. D. MACBETH



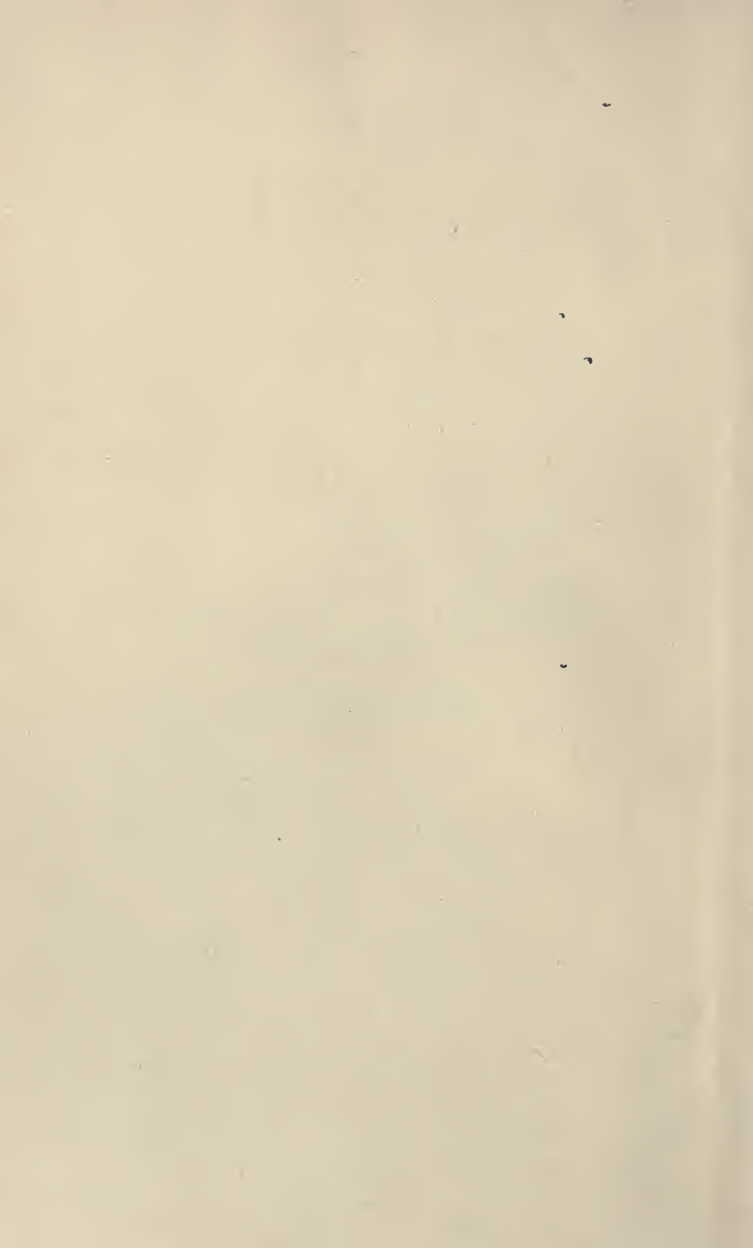
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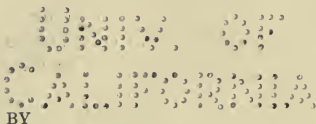


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THE RATIONALE OF RATES

A DEFENCE OF THE SYSTEM OF ANNUAL
TAXATION IN PROPORTION TO RENT.



BY

A. D. MACBETH.

ii

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PREFACE.

“THE OLD TAXATION AND THE NEW” was published as a pamphlet, bearing the writer’s name, by Messrs. Bell & Bradfute of Edinburgh in September 1899. “The Rationale of Rates” was published anonymously by the same firm in 1903. “On the Incidence of Rates in Towns” appeared as two articles in *The Scottish Accountant* in 1897.

The two pamphlets have been out of print for several years, and the writer has been agreeably surprised to receive, at intervals, communications asking if he had any copies of the first beside him. One applicant wrote that he could take eight hundred. So both are here reprinted, along with the earlier essay on the same subject. The title of the second pamphlet is considered suitable enough for the combination.

The minutes of the Convention of Royal Burghs of the years 1899 and 1900 on the scheme called the taxation of land values—a portion of which was appended to the original issue of the first essay—are here continued to their conclusion, which had not then been reached. Indeed it was in order to support the position taken up by the writer in the course of that very deliberate discussion (see pp.

114-116) that "The Old Taxation and the New" was written; and the pages just referred to are practically a précis of his argument.

The translation of the Act of the Cambuskenneth Parliament of 1326 would perhaps not have been appended in 1899 had the writer then known that this Act, with a translation of it, appears in "The National Monuments of Scotland," vol. ii. But he allows it to stand, not only as apposite enough, but also as an act of homage to the memory of King Robert the Bruce, to whom more than to his Parliament this courageous and enlightened piece of legislation is almost certainly attributable.

A good deal has been spoken and written since 1903 on the subject of taxation, but the writer has not heard or seen anything to shake his belief that the view here presented is substantially sound. Nor has he happened to meet with any short, plain statement of that view such as might have made the reprinting of his attempt superfluous.

ROTHESAY, *May*, 1912.

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THE OLD TAXATION AND THE NEW.

LOCAL Taxation is usually supposed to be a dry and difficult subject. An attempt will be made to present a view of it which seems to the writer to be simple and exhilarating as well as true. It is not the view of an expert in political economy, but of an ordinary citizen, who presents it because in his belief that may be said of equal taxation which Burke said of civil freedom. "Civil freedom," says Burke in the great *Letter to the Sheriffs of Bristol*, "is not a thing which lies hid in the depth of abstruse science. It is a blessing and a benefit, not an abstract speculation; and all the just reasoning that can be upon it is of so coarse a texture as perfectly to suit the ordinary capacities of those who are to enjoy, and of those who are to defend it." We shall proceed by the way of comparing the present system of local taxation with the new scheme called the taxation of land values.

The cost of the various public services adminis-

tered by local boards and councils is at present met chiefly by taxation in proportion to the rent of the lands and heritages within the assessable area. The taxes are levied at a uniform rate per pound sterling, and only from individuals who are either owners or occupiers of lands and heritages. Where the subjects are let the amount demanded from the proprietor or occupier is in proportion to the rent for a year. Where the subjects are not let it is in proportion to annual lettable value, which is estimated by comparison with the actual rents obtained for other subjects. It is only in the few cases where subjects are not let, and no comparison with similar subjects which are let is practicable, that the Valuation Appeal Court admits any other mode of arriving at the annual value upon which the proprietor or occupier is to be assessed, and it is only these cases which give taxpayers, assessors, or appeal courts any trouble. In some cases the statutes under which such assessments are levied provide that rates shall not be imposed upon occupiers of small dwellings, but shall be leviable from the owners of such premises. This has the appearance of consideration for the poor, but it is probably no more than a recognition of the fact that it is difficult to collect taxes in small sums from poor persons. The result is not to relieve such occupants, but merely to transfer to the owners the trouble of collecting the rates along with and as part of the rent. That this

is quite recognised is evident from the provision of certain statutes—the Burgh Police (Scotland) Act, 1892, for example—practically giving the owner a commission on the rates he so collects.

The simplicity of this system can scarcely be questioned, but it is easy to take some objections to it on the score of equity which have a certain appearance of force. It may be said that this is taxing rent only, or heritable property only; and why should heritable property be taxed, and moveable property wholly escape? We answer that to tax an occupier in proportion to the rent he pays is not to tax rent, nor to tax heritable property. It is to tax the persons who pay rent. It is usual to speak of things being taxed, but that is a way of speaking which leads, we suspect, to a good many fallacies. Things do not pay taxes, it is persons who pay taxes. “Take it so,” a critic might say, “then I object to this system, because such persons as are neither owners nor occupiers within the area of assessment escape taxation. If a man chooses to be a ‘boarder’ instead of becoming tenant of a house, he may enjoy all the advantages of the locality without paying any part of its local taxation, while the person with whom he boards probably pays taxes in proportion to a large rent; the person in receipt of a salary pays in proportion to the rent of his dwelling-house only, while the trader or manufacturer, whose free income may be no greater, pays

also a sum in proportion to the rent of his business premises; men whose business requires expensive premises pay heavy amounts, other business men who do not require such premises escape; in the case of rates levied wholly or partly from proprietors, a proprietor who is taxed in proportion to the rental of several large tenements may be drawing less free income from the rents of these tenements than a person holding a mortgage over them for money lent, who may not reside within the assessable area, and so may escape altogether from contributing to local expenses." One hears these and similar objections spoken, and even sees them printed. They are not without a certain plausibility, but their plausibility is the result of an unreasonably contracted view. No map was ever published, no drawing was ever made, which was not demonstrably incorrect in every detail, if examined closely enough. But it is possible to make useful approximations to truth in the way of maps and drawings, which must be looked at with some appreciation of the necessary limitations of the effort. Looked at broadly, the system of taxation in proportion to rent appears as the most admirable which could be devised, if the intention is to make every person residing in the assessable area pay a contribution in proportion to his free income.

The apparent escape of the boarder is seen to be

only apparent if we attend to the fact that the boarder pays for his accommodation at a figure which is considered sufficient to recompense the person he boards with for all trouble and expense on his behalf, including a fair proportion of rent and rates. This figure is arrived at without explicit reference in each case to the amount of such proportion, but this is simply because a current or market rate for board of a certain description has established itself. Rents, taxes, prices, and wages are elements which have contributed to make that rate what it is, so that by paying the usual price for his accommodation the boarder is paying a fair proportion of the local rates. The shopkeeper who pays rates in proportion to the rent of a large shop in addition to a sum in proportion to the rent of his dwelling-house appears to be in a harder case than his neighbour who is a salaried official. But take a wider view of the facts. The shopkeeper carries on his business because it pays; that is, because the prices he gets from his customers afford him a fair profit after paying rent, taxes, and all other necessary business expenses. It is his customers who pay the shopkeeper's taxes, and, roughly speaking, they pay in proportion to the amount they spend in the shop. What corresponds to the salary of the one man is not the gross drawings of the other, but his profits; and the current rents, rates, wages, and prices are

all elements which have contributed to the result, and do by their complicated interaction generally preserve the result, that there and then a man can make in that business what is considered a fair profit as things go. The same elements have also contributed to fix the official's salary at the point at which it stands.

Again, taxes levied in proportion to rent are sometimes levied so as to be payable wholly or partly by the proprietor who receives the rent, and not by the occupier who pays it. Is this a hardship to those proprietors who pay also on the rent of the houses they occupy? Upon a wide view it is not a hardship. The proprietor is in the same position as the shopkeeper in the last example, and his tenants are his customers. Under the operation of tendencies lying in the nature of civil society rents do in fact correspond roughly to the burdens on proprietors so as to leave a fair return, taking risks, trouble, and all other circumstances into account, in the same way as prices do in fact correspond to the necessary expenses of shopkeepers. If it were otherwise the business of building shops and houses to let would not be carried on. It is not necessary, indeed, it is wholly misleading, to say that there is such a connection between rent and rates that in every case an increase of rates payable by the proprietor can at the termination of the lease be added to the rent, and

so must be borne in future by the occupier. This is so evident that people are ready to reject altogether the proposition that there is a transference of the burden from proprietor to occupier. But to get a proper view of the subject it is necessary to stand further back. The fact that the proprietor's free return is diminished by an increase of rates levied from him will not lead to a demand by him for a higher rent, unless the circumstances are such as to render it likely that the tenant will consent to pay more. As a rule it is not likely that the tenant will agree to pay more rent if there are premises with equal advantages to be had for the old rent. That is to say, the question turns on the supply of accommodation. Now as a matter of fact the supply of accommodation is kept up by those who build for profit, and a decrease in the margin of profit will inevitably tell on the business of providing accommodation as it tells on any other business in the way of checking enterprise. The diminished inducement to build will diminish the supply of buildings. But we cannot do without house and business accommodation, and with a diminishing supply the market rate for accommodation, called rent, will rise; so that the increased burden on proprietors will indirectly result in the tenant being willing to pay a higher rent, or practically to accept the burden of the increased taxation. There are people who will

say all this is mere theory. But the question is, is it in the main true to fact, or not true? Nothing can be more irrational than to say, as some do who wish to be considered eminently practical men—"Leave this question of the incidence of rates: it is insoluble: let us deal with the immediate incidence as if it were final." Perhaps this is to shut our eyes to matter of fact. Shall we say because seed corn looks the same to-day as it did last week that the whole subject of growth is inscrutable, and that the simplest way is to deal with corn on the footing that it does not grow? In a sense it is the simplest way. The subject of growth *is* inscrutable: and yet it is possible to know something about growing corn. Is civil society in sober truth not less natural than the rest of nature?

To generalise from the cases we have sketched, the considerations which enable us to see that the tax or rate in proportion to rent is a tax in proportion to free income, are—

1. That the dwelling a man occupies is usually of a rent or annual value proportionate to his free income.

2. That the rates on business premises are paid by those who use the commodities there supplied in proportion to the amount used.

3. That the levying of rates from proprietors has, as a natural and inevitable result, the raising

of the price current of accommodation to an equal extent, so that the whole rates levied in proportion to rent are borne by occupiers either directly, as levied from them, or indirectly in the form of a higher rent; this result not being direct and immediate, but indirect, gradual, and inextricably involved with all the other considerations and circumstances which contribute to the formation of the price current termed rent.

These considerations are now stated without any qualification, but none of them is put forward as rigidly and universally true. They are rather sound generalisations which it is safe to regard, and not safe to disregard, in framing or criticising a scheme of taxation. It is not disputed that there are cases where an increase of rates levied from proprietors is borne by proprietors, and not by occupiers, and cases where an increase of rates levied from the occupiers of business premises is borne by the occupier and not by his customers. But these cases are exceptional and temporary. No sooner has an exceptional case arisen than something in the very nature of things begins quietly, but ceaselessly, to operate for its removal, without any direct effort on the part of individuals. The division of the State into districts, in which rates are levied for the purposes of the district, introduces one class of qualifications. In what has been said, we have assumed that the whole life and business

of a particular district is carried on within that district, which is scarcely true of the most sequestered locality, and very far from true of the divisions of highly civilised countries. The ordinary man's domestic and business affairs have ramifications extending far beyond the local taxation district in which his dwelling is. But this does not discredit the system of taxation according to rent. We cannot trace these ramifications, but the natural constitution of civil society is such as to render it unnecessary to do so. If reasonable consideration be given to circumstances in adjusting the boundaries of areas for local taxation, then, by taxing according to the rents of the lands and heritages within a certain area, for the purposes of that area, a rough approximation to fairness is at once secured, and the fairness will be confirmed, rather than discredited, by careful consideration of the apparent defects of the system. As an example of its unsuspected accuracy, take the case of a casual visitor to a town or district. He uses, perhaps for a day, perhaps for a month, the roads which the taxpayers of the district keep in repair, the water supply, and all other public advantages which they pay for. Is this all for nothing? By no means. Under the system of taxation according to rent, in paying for the accommodation and services for which a visitor usually pays, he pays with considerable exactness a contribution towards

all the public expenses proportionate to the period of his residence, the amount due being calculated and charged, not by inquisitive officials, but silently and automatically by the very nature of things. We are, of course, speaking of the visitor living at his own expense. The contribution for the invited private visitor is paid in a similar way by his entertainer.

To sum up, the system of taxation in proportion to rent is simple and fair. All the lands and heritages within the taxable area are known. The proprietors and occupiers are known. To ascertain the rents or annual letting value in very few cases occasions such trouble and expense as would be necessary to ascertain the taxpayer's free income. Yet the result is practically a tax in proportion to free income on the whole inhabitants. Without being based upon anything indefinite, abstract, or incapable of being easily measured in figures, such as "ability to pay" or "degree of sacrifice," the system does not in its operation violate the principles indicated by these phrases, but realises them at least as successfully as any other system. It creates no invidious distinctions, all ranks and classes being on an equality. There is no point at which there comes in anything uncertain, arbitrary, dependent wholly or chiefly upon opinion. These are substantial advantages. Let us compare with this system that other which we are now invited

to adopt as a partial, or it may be an entire, substitute.

The taxation of land values is a phrase used for the imposition on all proprietors of land within a certain area of a special tax to be calculated in proportion to the estimated selling value of their land (or, which gives the same result, a percentage of such selling value, to be called the "annual land value") on the supposition that the erections which may be upon the land at the time are not upon it, the erections on the rest of the assessable area and around it being supposed to remain, the proceeds of the tax so levied being applied to public purposes within the area assessed. It is proposed to apply this method of taxation to municipal areas for municipal purposes, each city or burgh being thus a separate area for the imposition of the new tax, which may, in the option of the municipal authority, be in addition to the present taxation for municipal purposes, or wholly or partly in substitution for it. It is usually put forward as part of the proposal that where any piece of land is burdened with a fixed irredeemable annual payment, such as feu-duty or ground annual, the owner of the land shall be entitled to deduct and retain when paying the feu-duty a proportion of the total tax so levied from him corresponding to the proportion which the feu-duty or ground annual bears to the "annual land value." In the draft bill approved

by the Corporation of the City of Glasgow it is only irredeemable annual payments which are to be subject to such deduction, the interest of redeemable incumbrances, such as mortgages and certain other real burdens, whether constituted before or after the imposition of the tax, not being affected.

The new tax may be in addition to the taxation presently leviable, or it may be wholly or partly instead of such taxation. That is a matter in the discretion of the local authority. The new system makes very free use of discretion, which in this connection can only mean arbitrary power; that is to say, power acting without definable rule or principle. The legislature is first of all to fix a maximum rate for the new assessment. Two shillings in the £ of gross rent has been suggested, but it does not appear on what principle. A maximum has been fixed by the legislature in the case of other rates. By the Burgh Police (Scotland) Act, 1892, the burgh general assessment is not to exceed 4s. in the £ of gross yearly rent when the Commissioners supply water, and otherwise is not to exceed 2s. in the £. By the Public Health Acts a maximum rate is also fixed. But in these cases a principle is discernible. The rate is to provide for certain public services, the usual cost of which is approximately known. It is salutary that a maximum rate should be fixed, sufficient for all real necessities and at the same time a check on rash schemes and lax adminis-

tration, injurious not merely to the locality immediately concerned, but to the State. If the land values assessment were to provide for a particular service, or if it were to cover all Local Government expenses, the legislature might fix a maximum from a consideration of the probable cost of the services to be provided for. But it is not to do either. It is hard to see, therefore, upon what basis—other than arbitrary opinion, restrained only by that sort of prudence to which the most odious tyranny has to pay some regard—a maximum of 2s. has been proposed rather than 4s. or 8s.

The same arbitrariness is to characterise the levying of the tax by local authorities. The amount or rate they choose to levy under the name of “land values assessment” is, within the given maximum, purely a matter of taste, and it is also a matter of taste whether it is to be in addition to, or in substitution for, the present local rates. Even then we are not done with arbitrariness. Under the present system there is in few cases any room for difference of opinion about the proportion to be demanded from each ratepayer. It is fixed by his rent. Where the subjects are not let there is a simple and easily applied measure—the actual rent of similar subjects. The range for difference of opinion is small, and within it judgment is guided by a prompt and easy appeal to facts. Under the new system something abstract has to be valued.

A supposition has to be made in every case, and a value placed, not upon the actual subject, but upon a subject conceivable only by the aid of imagination. The facts from which a decision can be arrived at are few and obscure. Ask a plain man to estimate the "land values" within a certain area, and if you succeed in getting him to understand your meaning, he will say it is very much a matter of opinion. That is to say, the new system of taxation is from beginning to end characterised by arbitrariness.

Are we venturing upon ground which has recently become debatable? Are the objections which used to be taken to arbitrary taxation no longer valid? Is it a mere fancy that arbitrary taxation is subversive of the first principles of civil liberty—that only increasing confusion, uncertainty, and injustice can come of it? Perhaps it is all fancy. We shall not labour the old view. Let us pass on. Perhaps we are coming to some mighty advantage.

Is it that the new taxation realises the principle expressed in Mr. J. S. Mill's watchword, Equality of Sacrifice? The phrase seems to us a mere economic will-o'-the-wisp. It is impossible to use it as a measure, even of the roughest sort, in the apportionment of taxation. Rent, income, capital, price, or quantity of merchandise are all measurable in figures, and it is a simple matter to calculate a tax

in proportion; but who shall measure sacrifice? It is a matter of feeling. The sacrifice of half a sovereign as his share of the cost of some public advantage which he and others might have had to go without may be a positive pleasure to one man, a matter of indifference to another, and a keen regret to a third, all in equally good pecuniary circumstances. How shall we fix a normal standard of feeling, and, supposing we have got it fixed, how shall we apply it as a measure of assessment? There is something ludicrous in the very idea, but if it is to be treated seriously what could be more terse than Mr. Mill's own words—

“Whether the person with £10,000 a year cares less for £1000 than the person with only £1000 cares for £100, and, if so, how much less, does not appear to me capable of being decided with that degree of certainty on which a legislator or financier ought to act.”¹

Taxation according to “ability to pay” is another will-o'-the-wisp which eludes definition and utilisation. In a sense ability to pay depends on intelligence, on education, on opportunity, on health, on other obligations and circumstances. If elements like these are to be measured in the case of each taxpayer, and a compound total fixed, it would be

¹ J. S. Mill, “Political Economy,” Book V., ch. ii. sec. 3, ed. 1852, ii. 370.

well to know who is to do it, and how he is to go about his work.

But there is some little meaning to be got out of both phrases. "Equality of sacrifice" may afford no measure of contribution; perhaps it may not even mean that equal incomes should pay equal contributions; but surely if it means anything at all it must mean that equal incomes derived from accumulated property should pay equal contributions. And taxation according to ability to pay must also mean that if it means anything. The old taxation stands this test if we take the broad view of it we have indicated. Let us apply the test to the new taxation. Take the case of citizens who have an income of £200 a year from accumulated property. One of these derives his income from the rent of buildings (which he may have bought last year) in the heart of a town, where the "annual land value" is estimated, let us suppose, at half the gross rent. If we take the gross rent at £300, he will pay the new poundage on £150. Another who has bought more land and buildings than his neighbour, but in a less advantageous situation, may pay on £100. Another neighbour who derives his £200 a year from money lent on mortgage will pay nothing. Another who has invested his capital in the purchase of feu-duties will probably pay upon his full £200, while another who has put his money into the stock of a trading concern will pay

nothing. Could there be a better system if the object were to promote ill-feeling and exasperation? There need not be a malign intention. Inadvertence at a critical juncture and the restless efforts of a perverted conscientiousness give the same result.

If the new taxation conspicuously fails to realise equality of sacrifice or taxation according to ability to pay in the only cases to which the measure suggested by these phrases can be applied, we must look elsewhere for its advantages. We admit that we have not yet touched upon what is considered its great recommendation. That recommendation is not simplicity, or fairness of incidence, or economy of operation. It is a supposed indirect effect in the way of cheapening land and reducing rent. "The beauty of it," we have seen it put, "lies in its far-reaching consequences." Certainly it looks ugly enough at hand. Let us regard its far-reaching consequences.

Its first result must be to make land and buildings in towns a much less desirable possession. A tax is to be imposed on this sort of property, difficult to estimate in its application to particular subjects and unlimited by any principle as regards the amount to be raised. This uncertainty must adversely affect values. But put aside the element of uncertainty. Suppose that the owner of a subject producing a free revenue of £200 a year is required to hand over £20 as land values assess-

ment. There is no pretence that the tax will be diminished in the future. On the contrary, the frankest of its promoters give us to understand that it is to be gradually increased. Let us assume, however, that it is fixed at 10 per cent., and dismiss also the consideration of the vexation and expense involved in adjusting the amount on which the percentage is to be calculated. The result is that the local treasury benefits to the extent of £20 a year *wholly at the expense of the person who is proprietor when the tax is laid on.* The value of his property, to hold or to sell or to bequeath, is at once reduced by one-tenth. This seems a little hard; in fact, if we were to say that it is “a palpable violation of common honesty,” associated with “a shameless pretension,” would the expressions be too strong? Yet these are not our expressions. They are the expressions used by Mr. J. S. Mill in describing the operation of a special tax on land or any other selected species of property.¹ And the reason of his indignation is just what appears from the case supposed—that the tax would be tantamount to the confiscation of a percentage of the property of those paying the special tax, equal to the percentage laid upon their revenue by the tax. It is true that Mr. Mill fancies that the same language does not apply when it is “unearned

¹ “Political Economy,” Book V., ch. ii. sec. 3, ed. 1852, ii. 372.

increment" which is so taxed. But in the first place it is not unearned increment which is appropriated by the new taxation, but a value which the owner may have paid for last year, and therefore Mr. Mill's condemnation does apply fully and exactly. And in the second place, Mr. Mill's suggestion, that there is no violation of justice in specially taxing unearned increment, cannot stand examination. The possibility of unearned increment is not confined to one class of property, and in the cases where unearned increment may fairly be expected according to the usual course of nature, that consideration enters into every transaction connected with the subject, whether it be a piece of land or a cow. The man who buys land in or near a growing town pays for the possible unearned increment at its market value, and it is then what we term "his." Another who might have bought the subject chooses to buy another where the immediate return is better, but the chance of increment in selling value is not so good. Why should the system of taxation favour the one more than the other? To the plea that it is the presence of the community which created the unearned increment, and that, therefore, the community is entitled to appropriate it, we might reply—What community? It is the existence of a community within reach which gives a selling value to property of any description, but not exclusively the local community,

or even the national community. It is not proposed to appropriate all sorts of property. Yet all property is exchangeable at market rates. To select one sort and appropriate a special portion of it is false policy. It can only effect its purpose for a short time, and so long as it does effect it injustice is done.

We shall be told that no reform can be effected without some little injustice, and that the destruction of the land monopoly is a general advantage, which would be well worth securing even at the cost of some suffering. Let us scrutinise a little this phrase, "land monopoly." Monopoly originally meant the power conferred upon one man, of exclusive dealing in a commodity or commodities which others might deal in if not prevented by legal exclusion. To sell monopolies, and to create Government monopolies, are modes of raising State or Crown revenue once common but now fortunately impracticable. The word has come to be used in a wider sense as a temporary control of the market, however obtained. The essential feature of monopoly, in the absence of which the term is wholly misapplied, is that a temporary exclusive power to deal in certain commodities is secured by one man, or that all who have the power of dealing *combine* to act as one man. There never has been a monopoly of either sort with respect to land, nor is there any sign of its approach, unless we may

expect combination by way of natural resistance to unjust taxation. It is true that the owner of any piece of land may dictate the price of it, and if nobody is willing to give him his price the land remains his. It is the same with any other commodity. There are other things of the sort to be bought, and the fact that there are some which are not for sale, or for sale only at a fancy price, does not create a monopoly or anything of the nature of a monopoly. Let us not suppose a case and make laws for it: let us take the actual case. As a matter of fact, there is no combination among landowners to raise prices. The price of land is as truly an open market price as the price of cattle. It may be said that cattle can be moved to where they are wanted, while a piece of land is practically fixed. But population is not fixed; it becomes every year more mobile, and its mobility does not involve the assertion of equal mobility as characteristic of the whole individuals and families of which it is composed. It is not necessary to suppose that everybody is ready to pack up and move wherever a balance of advantage may for the moment present itself. That would be obviously inconsistent with fact. But in every community there is, as a matter of fact, a mobile element. There are individuals and families in such circumstances, and with such dispositions that they are ready to change their place of residence on very slight

grounds, and this controls the market price of land as effectually as if the land were movable and the population fixed. Suppose that in a particular district an exceptionally heavy tax is suddenly imposed without adequate compensating advantage being given, the selling and letting value of lands and buildings falls, not because the whole population moves away, but because some who have no particular ties move away, and others are deterred from taking their places—the inducement to live there being relatively low, until, owing to diminished demand for accommodation, the inevitable fall in rents has established itself. Thus the whole population of the district affected by the tax, most of whom are probably not disposed, or practically unable, to move away, do in fact receive the same economical advantages as if all were ready to move, for the market rate of rent is affected to an extent at least sufficient to counterbalance the rise in taxation. This practical mobility of population places an insuperable bar in the way of land monopolisation. There may, no doubt, be rare cases where a landowner retards or prevents the expansion of a community by asking more than the market price for his land, or attaching unreasonable conditions to the sale of it. But, looking at the matter broadly, his action only results in development going on elsewhere for a time. The members of the community where development is arrested are

not necessarily less prosperous than they would have been if development had been specially encouraged. Under actual conditions the case is by no means a common one, and the harm done, if any, is probably much less than if the laws were devised to make such cases impossible. We are reminded of the officious bear, who flung a brick at the fly which had alighted on his master's face.

But let us not waste time over a phrase. What is the thing signified? What is the advantage which we are promised by those who speak of destroying the land monopoly? It is, of course, lower rents and lower rates.

The reduction of rents is to come about in this way. Landowners having vacant land in and around towns, being subjected to this special tax, will, it is expected, build upon their land in order to provide a revenue to pay the tax, or they will sell the land to some one who will build, and with the increased supply of buildings rents will naturally fall. But there appears to be nothing in the imposition of the proposed tax which tends to encourage building. If certain lands are not built upon, the reason is that the inducement in the way of return, whatever it may be, is not sufficient. It is hard to see how it becomes greater when the new taxation is imposed. The land is at once depreciated in value. To build on it will not restore the depreciation caused by the tax. The deprecia-

tion is so much finally and irretrievably lost to the owner. Suppose he has £200 a year from the land without building, and that he does not build. Perhaps he has not the necessary capital; perhaps his capital is employed otherwise, to better advantage, in his opinion. A tax equal to £20 a year is imposed upon him. Why should this induce him to build? His patrimony is reduced in value by about £500, whether he builds or not. The considerations for and against building remain what they were before the tax was laid on, with that difference—a difference which does not necessarily or naturally tell in favour of building. If he has an ample income from other sources, he may just as well pay the tax out of it and continue to use or let the land for agricultural or other purposes. If it pinches him to do so, he may sell; but the purchaser has not necessarily any greater inducement to build than the seller had. He buys at a reduced price simply because the subject has become of less value to a purchaser, being burdened with a new tax of £20 a year. Presumably he gets from the land, without building, the same net return on the reduced price as the seller got on the price or value before the tax was laid on, and, as that return was sufficient to make the seller content to hold the land without building, it may equally content the purchaser.

It may be said, however, that at present the

inducement to hold is partly that a return is accumulating in the increasing selling value of the subjects, and that if the increase of selling value is to be appropriated for public purposes, the inducement to hold disappears, and the land will be at once utilised for building. We shall look at that view presently. Meantime let us observe again that the appropriation of the increased selling value is not the proposal. The proposal is the appropriation of a proportion of the estimated selling value of the bare land.¹ If we suppose this proportion to be fixed once for all, we have the most favourable case as regards encouragement to build, because the person thinking of building wishes to know as definitely as possible the burdens which will affect his profit. Even in that case there is no new inducement to build created by the tax. But that is only a supposed case. The actual case will be much less favourable to building, because the proportion to be appropriated is not fixed, but may be increased indefinitely. To a person thinking of building, uncertainty in the amount of the future burdens will be a serious deterrent. The same consideration will operate in the way of making it more difficult to obtain building loans. Yet in the

¹The words "appropriation" and "confiscation" are not quite accurate, for although a capital value of about £500 is at once *lost* by the owner in the case above supposed, it is not *gained* by the public purse.

actual case this uncertainty will be present to a very serious extent. The tax may be anything less than 2s. in the £ sterling of estimated "annual land value," there being nothing but the predilections of the majority on the assessing board to regulate the amount. The judicious man will be slow to take even 2s. as the limit of possibility, for there is no principle on which the tax is limited to 2s. in the £. That being a purely arbitrary figure, the legislature which fixed 2s. may at any time increase the rate. There is also to be taken into account the uncertainty in estimating what is termed the land value. The difficulty of estimating the value of a subject not as it stands but upon certain suppositions opens up a vista of vexation and litigation which people will require very substantial inducements to face. If it is not faced, what becomes of the supply of buildings? If the supply of buildings falls off, rents will not fall but rise.

The new taxation is not the appropriation of what Mr. J. S. Mill calls the unearned increment of land value, and the passage from Mr. Mill, to which reference has been made, is a condemnation of the special taxation of land so very clear and strong that it requires all one's charity to believe that Mill's writings are in good faith supposed to favour the new taxation. But Mill's fate to be quoted as favouring what he would have scouted, and indeed has explicitly scouted, is not a matter

for surprise. There is, Mr. Mill says, a progressive increase of rent which may legitimately be appropriated as it arises, because it is unearned. The safeguards and limitations and qualifications with which the philosopher surrounds this concession inevitably go for nothing. And shall any human inquisition satisfactorily distinguish what has been truly "earned"? In truth, if we set out, as Mr. Mill does, from the conception that "distributive justice consists in redressing the inequalities and wrongs of nature,"¹ and proceed logically, we cannot stop while one stone is left upon another. But when we have been at work on the enterprise for a while, the extent of it will begin to dawn upon us. The inequalities and wrongs of nature will appear in a new light. We, or those who come after us, will be humbler, and other suggestions will be listened to. It is, however, unnecessary to think on such a large scale. Unearned increment, as has been often pointed out, is a characteristic of other forms of property besides land; but suppose, for the sake of argument, that it is exclusively a characteristic of property in land. Then practically this sort of property, a part of which, very difficult to estimate, is liable to be appropriated periodically as unearned increment, will have a serious disadvantage attached to it. That disadvantage must tell in making people shy of buying land. But nobody

¹ "Political Economy," People's ed., p. 485.

can build without buying land to build on. Consequently building will be checked and rents will rise until the community which was so foolish as to appropriate unearned increment is just paying, in the form of higher rents, the money which it appropriates, *plus* the cost of all the expensive procedure for fixing the amount of the unearned increment, and a handsome premium to cover the risk of the increment being over-estimated. This is the result of undertaking to remove the inequalities of nature.¹ At present the unearned increment goes to those who buy it or inherit it. The market measures its amount automatically, and without partiality. Those to whom it goes have acquired it by the very same sort of title which is held in law to justify the possession of any other accumulation of property.

Mr. Mill's suggestion has, therefore, the same defect which characterises the scheme called the taxation of land values. To gain a small and, indeed, illusory advantage, both schemes cut at the root of civil society. They destroy the natural inducement to lay out money in building dwelling-houses and business accommodation. It is infatuation to suppose that the lack of this natural inducement can be compensated by municipal or national building enterprises. The new policy will only be

¹ If the gentlemen who are bent on removing the inequalities of nature would condescend to accept a hint we might say, Why not let the old world go, and make a new one from the beginning?

carried to the point of throwing into confusion the whole organisation of society. There it will be left. The course of events is not difficult to foresee. A growing feeling that capital invested in land or buildings (which must be held together) is liable to unfavourable treatment as regards taxation; less building; rising rents without any compensation in additional value; general exasperation of the body of the people against the owners of capital, who will not use their capital to increase the quantity of accommodation—shall we follow the far-reaching consequences any further? We need hardly do so. Those who do not see them will not believe us.

There remains to be noticed the supposed justification from history. We are to believe that there was a time when the whole burden of taxation fell upon the land-holding and land-owning classes; and we are to believe that these classes, having the control of legislation, and “always intent upon securing their own interest, no matter at what cost to the people at large,” managed to shift the burden from their own shoulders to the shoulders of the people.¹ Ordinary experience generates in ordinary minds a quite trustworthy feeling that such a view of history must be false. If an appeal be taken from feeling to fact, there is no trace, in Scotch

¹ The sentiment is common on platforms, but this expression of it is taken from “The National Budget,” one of the volumes of a series entitled “The English Citizen,” edited by Sir Henry Craik (p. 41).

history or in English, of a time when taxation was only a deduction from the superfluities of the rich. It is certain that it was not so in the early times when the direct demands of the King were made almost exclusively upon the land-holding classes. Referring to the re-imposition of Danegeld by William the Conqueror, and his introduction of new feudal burdens, the great authority on the constitutional history of England says—

“It is needless to observe that the actual burden of the feudal imposts as well as the older taxation fell on the English, for the Norman lords had no other way of raising their reliefs and talliages and the rest than from the labours of their native dependents. The exaction may have been treated by them as a tyrannical one, but the hardship directly affected the English” (Stubbs, *Constitutional History*, ed. 1875, i. 279).

In Scotland it was the same—

“But little noticed in medieval history, the lesser tenantry and the population attached to the soil formed the suffering classes of the age upon whom fell the burden of famine, of pestilence, and of war. Some of the enactments of the burghal laws seem to point to the probability of a dearth or famine as a contingency to be prudently guarded against, and on such occasions where the right of exaction was unlimited the native-man must have approached the verge of starvation long before his proprietor endured the pangs of want. The feudal aid, whether obligatory or voluntary, was supplied eventually by the lower classes, upon whom also fell the weight of all those oppressive burdens which, though connected generally with the feudal system, were practically in existence long before its rise; whilst in the case of the free tenantry there were times of difficulty and distress when the right of limited exaction must have been pressed to the utmost even if the strict boundaries were not transgressed.” (E. W. Robertson, *Scotland under her Early Kings*, ii. 169.)

If therefore any one suspects that there is a political analogy to the circumstance that it is impossible to adjust a burden on a man's head and shoulders so that he can trudge on without his legs knowing it is there, history seems rather to support that view. And if we try to realise bygone times it will appear that the burden of carrying on the Government (which is not wholly a matter of money) was shared more fairly than many are disposed to think. There is subjoined (Appendix II.) a translation of a piece of legislation old enough to be described as purely landlord-made; for although burgesses are mentioned (for the first time) as taking part in the deliberations of the Parliament, every burgess was then a landowner in the full modern sense of that word. King Robert the Bruce died within three years from the passing of the Act, and the conception of a steady annual taxation in proportion to rent disappears for more than three centuries. But all through Scottish history, and even when the system of casual demands and grants of uncertain amount most prevailed, there appears to have been on the whole a shrewd, honest, kindly, and in the main successful, effort to make the burden of the public service proportionate

THE RATIONALE OF RATES.

A ROYAL Commission on Local Taxation was appointed in August, 1896, upon the advice of Lord Salisbury's Government, in terms evidently intended to secure an investigation of the rating system to its very foundation. After issuing two interim reports on particular branches of their inquiry, several volumes of evidence, and a volume entitled "Memoranda chiefly relating to the Classification and Incidence of Imperial and Local Taxes," the Commissioners in 1901 issued a Final Report relating specially to England and Wales, but dealing generally with the subject referred to them. This was followed in April, 1902, by a Final Report dealing specially with Scotland.

The volume entitled Memoranda was issued in October, 1899, and consists mainly of a collection of essays by writers on political economy based upon a set of queries framed by the Commissioners. Whoever named it is open to the suspicion of being satirical. It was the last instalment of facts and

- Final Report, E. & W., p. 1. opinions which the Commissioners had to digest, and one cannot wonder that they begin their main report with the statement that, "in attempting to formulate their final conclusions they are more than ever impressed with the complexity of the existing system."¹ It would appear from the Memoranda that with regard to taxation nothing can be said to be settled among political economists. However, a report had to be produced, for 27,773 questions had been put and answered.
- p. 2. The Final Report (England and Wales) accordingly proceeds to describe the rating system. It is said to be very simple, in so far as all rates are levied in respect of immovable property and generally from occupiers of such property in proportion to the net annual value. After some remarks on the methods of arriving at net annual value, the various local public services upon which the rates are spent are enumerated, and the exceptions to rating on net
- p. 5. annual value are mentioned, the principal exception being agricultural land, which is rated on a proportion only of its annual value. The report then sketches the history of contributions to the cost of
- p. 6. local services by parliamentary grants from funds raised by national or imperial taxation, and the
- p. 7. change (made in 1888) from grants of specified

¹ The Final Report (England and Wales) is referred to on the margin as E. & W., and the Final Report (Scotland) as S.

amount to grants of the whole produce of particular sections of the imperial revenue, and it is observed that these grants have hitherto been distributed mainly in proportion to the expenditure of the various local bodies sharing in them. It is then pointed out that the question on which the Commission is required to report (namely, "whether all kinds of real and personal property contribute equitably to taxation for local purposes") involves what the Commissioners call "the baffling problem of the incidence of rates and taxes"; and not only that baffling problem, but "the still greater difficulty of finding a criterion of equity." The Commissioners avow that they cannot hope in their report to offer a solution of the question which would command universal assent, and they propose instead to start from the existing system and inquire in what respects it has been, or may be, held to be unfair or oppressive in practice. They find in effect that owners say the present system is too favourable to occupiers; that occupiers say it is too favourable to owners; and that various classes of owners and various classes of occupiers say it is specially unfair to them. A justification of all these complaints is found in the circumstance that local taxes are practically levied "in respect of only one class of property." The remedy suggested is the "diversification" of local taxation to a

E. & W.
p. 10.

p. 11.

p. 11.

p. 16.

greater extent than at present by means of assigned national revenues—that is to say, by the transfer to local bodies of the proceeds in their localities of certain of the taxes imposed and fixed by Parliament and collected by officials of the national departments. For guidance in doing this it is considered desirable to consider public services as falling into two great divisions, those “preponderantly local or beneficial” and those “pre-dominantly national or onerous,” and in attempting this division poor relief, police, education, and main roads are the services classed as preponderantly national. A scheme is then outlined by which the contribution at present drawn from national taxation and handed over in aid of local taxation would be increased by about £2,500,000 over the United Kingdom, being raised from £7,145,000 to £9,715,000. The schemes for what is called taxation of land values are then examined and condemned. The report then discusses various details of the present system, such as exemptions (of places of worship, schools, &c.), compounding (an arrangement by which owners become responsible for the poor rates of their tenants for a consideration), the valuation of machinery, and the valuation of railways.

Following the main report are separate recommendations by Lord Balfour of Burleigh. His lordship, though he signs the main report, would prefer to give up the policy of reducing local taxa-

E. & W.,
p. 12.

p. 32.

p. 39.

p. 46.

p. 50.

p. 53.

p. 56.

p. 69.

tion by assigning the proceeds of certain national taxes. He is for reverting to grants of fixed sums, and would distribute a fixed sum, not exceeding one-half of the whole cost of the local public services classified as preponderantly national, which he would take from the consolidated fund. He estimates the total amount of the present local expenditure on services which may properly be termed national at £20,700,000, and towards this he would contribute from national or parliamentary taxation £10,025,000, or about £3,000,000 more than at present. In distributing the various grants he would adopt a principle by which poorer places (by which is meant places having a low average of rent paid per inhabitant) would receive a larger proportion of their expenditure than places with a high average rent.

E. & W.
p. 73.

p. 75.

After some brief reservations by some of the Commissioners there follows a long report by Sir Edward Hamilton and Sir George Murray, who restate most of the arguments and recommendations of the main report, but support the separate recommendations of Lord Balfour of Burleigh.

p. 97.

Then there is a separate Report on Urban Rating and Site Values, signed by Lord Balfour of Burleigh and other four of the Commissioners who sign the main report, one of the four indicating in a note that even this separate report does not express his opinions, but is signed by him because "to effect

p. 90.

E. & W.,
p. 165. anything there must be some give and take."

These five Commissioners "unhesitatingly condemn" all the schemes for taxing land on its estimated selling value which had been explained to the Commission, but declare in favour of a small rate proportioned to estimated "site value" in urban districts of a certain density. In the case of premises rented under existing contracts the new rate should be payable wholly by occupiers. After the termination of existing contracts it should be payable half by occupier and half by owner.

p. 177. Finally, there is a report by Judge O'Connor, K.C., who is for levying all rates in proportion to site value, irrespective of buildings or agricultural improvements. The occupier should pay the rates, but should be entitled to deduct the whole amount from the rent payable to the person from whom the subject was rented. If that person held the ground under a lease, he should be entitled in turn to deduct from the rent payable by him the site value rate on the amount of that rent. Existing contracts should be respected; that is to say, the new rate should be payable only when a new bargain for occupancy has been made after a date fixed. No attempt is made to describe the arrangements necessary for effecting the transition to the new system, nor to forecast in figures how it would work out in any actual or supposed place, nor to show how the various classes of ratepayers would

be affected. It is suggested that the cost of local services will, under this system, be defrayed "at the expense of the land interests of the locality," and that "relief for industry in all its forms will be secured," but at the same time it is stated expressly more than once that "whatever is paid by anybody for rates, rent, or anything else, must come from the product of the labour of the industrial portion of the community." If so, the advantage must consist in some readjustment of the proportions in which the classes composing the industrial portion of the community bear the burden of taxation. Some of these, presumably, will have more of the burden in future, others less; but which of the industrial classes are to have more and which are to have less of the burden is not indicated. Till it is shown what the change is to be, and how its permanence is to be secured, no more need be said upon Judge O'Connor's proposal.

E. & W.,
p. 181.

p. 184.

p. 183.

p. 177.

Reverting to the main report, we find in it no statement of what distribution of the burden of local taxation is aimed at in the present system, or of what distribution it actually results in. The answer of the Commissioners to the question put to them (not very happily put, we admit) is substantially, "We give it up; but we shall endeavour to answer an easier question. A question is not made 'easier' by using the word "fair" instead of "equitable." It remains the same.

For any inquiry into the fairness of a system of taxation necessarily involves coming to some conclusion upon these two questions—(1) How *is* the burden distributed? (2) How *ought* the burden to be distributed? If the true incidence of a rate is, as the Commissioners tell us, a baffling problem; or if, as they tell us, it is hopeless to find a criterion of equity; and still more if both these propositions be true, then it is manifestly impossible to say whether the present system of local taxation is equitable or to decide what would make it more equitable. The Commissioners do not seem to see that on the same assumptions the humbler task to which they propose to address themselves is also impossible. That task is “to start from the existing system of taxation and to inquire in what respects it has been, or may be, held to be unfair or oppressive in practice.” How can they pronounce any system of taxation to be unfair in practice while they are baffled by the problem of incidence, and unable to find a criterion of equity? Of course, we might understand the Commissioners as resolving merely to record actual or possible objections to the present taxation, and to make recommendations for obviating these objections without considering whether they are well founded. This would be a singular sort of task, and it is evidently not what the Commissioners proposed to themselves.

For, notwithstanding the formal acknowledgment that the problem of incidence is baffling, the whole report proceeds on the assumption that it is not baffling. We are told that "rates fall very much less exactly than taxes in accordance with ability to pay"—meaning by "rates" the local taxes raised by pound-rates, and by "taxes" the imperial or national taxes raised otherwise. How can this be known unless it is known how rates and taxes do fall? "An inhabited house tax," we are told, "is, in default of a regular income tax, the nearest approximation to taxation according to ability." How can this be known if the problem of incidence is baffling? One of the chief grievances connected with the present system is reported to be that "local expenditure is met in too large a measure by what is in effect a tax limited in its incidence." The Commissioners cannot mean limited in its immediate or apparent incidence, for that would not necessarily involve a grievance. For example, it would not be a grievance that an occupier paid £5 a year in rates if his house cost him £5 less by the year on that account. If the Commissioners mean limited in its ultimate or substantial incidence, they must believe that they know what that incidence is. It is reported to be a grievance that "those who possess and enjoy property not rateable are placed in too favourable a position as compared with the owners or occu-

E. & W.,
p. 13.

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piers of rateable property." This implies, not only that these are distinguishable classes (which appears to be an error), but also that the relative positions of these classes with respect to the incidence of rates is known to the Commissioners. And it is clear that the Commissioners are not merely recording alleged grievances, for it is immediately added, "that these complaints are well founded has been admitted by the great majority of those who have closely studied the subject of local finance, and who are entitled to be regarded as authorities on the question."

E. & W.,
p. 14.

It would rather appear, therefore, that the report proceeds on some assumption or conclusion with respect to the incidence of rates and taxes which is not explicitly stated. The most definite indication of what is in the Commissioners' minds is the statement that a rate is in effect "a tax limited in its incidence." Here, we are disposed to think, lies the source of the whole confusion. There seems to be absolutely no ground for the assumption that a pound-rate levied from occupiers is a tax limited in its incidence. It takes a contribution directly from every householder and affects indirectly every person who, not having a separate house, pays for a share of another's. It cannot be said that the tax is paid out of any particular class of property called "rateable property." It is not paid by the householder out

p. 14.

of the capital value of the house he occupies or out of the rent or revenue from that house, for the reason that, generally speaking, the house belongs to another. It is paid out of the householder's income, which may be wages, or salary, or trade profits, or professional fees, or interest on lent money, or dividends from joint-stock companies, in short, income of any or every conceivable sort. Only in the rare case of a householder who derives his income wholly from rents can rates be said to be paid out of rateable property. But if this be so, what becomes of the foundation of this whole report—the notion that rates are limited in their incidence, and that non-rateable property only contributes to local services by way of grants from the proceeds of national taxation?

The simple consideration that householders' rates are paid out of all sorts of income and not out of rateable property is sufficient to invalidate all the conclusions and recommendations of the Commissioners, but other considerations may be added. Take the case of the rates paid on—that is to say, in proportion to—the rent of hired business premises. Are these rates a payment out of rateable property?

We are apt to suppose they are, when we speak of rates being paid *on* the rent of these premises. But rates are not paid out of the capital value of the premises, or out of the rent, which does not

belong to the occupier. They are paid out of the occupier's gross business drawings. They are part of his necessary and foreseen business expenses. His whole business is adjusted—to a small extent by his own management, and to a very large extent by the operation of market prices over which he has no control—to the fact that he has to pay a substantial sum in local rates, if that be a fact. His rates, his rent, his wages bill are all paid by his customers, who serving at the same time their own purposes and interests, have paid him prices which not only cover business expenses, but in the normal case afford over and above a reasonable inducement to continue the business. So that neither the rates paid in proportion to the rent or dwellings, nor the rates paid in proportion to rent of business premises are a burden on rateable property.

There is, indeed, one line of argument which appears to support the position that rates are a burden on rateable property, but it is not open to those who are baffled by the problem of incidence. It is to contend that the burden of the occupier's rates is neither on the occupier nor (in the case of business premises) on the occupier's customers, but in every case on the owner of the property. This was the view taken by the three Poor Law Commissioners who prepared an elaborate report on local taxation in 1843. These Commissioners do

not argue the proposition. They take it as self-evident, and universally admitted; and, though it is now to a large extent discredited, some very respectable experts still hold by it. The way to prove it is simplicity itself. You ask who would benefit if the occupier were relieved of all rates. You answer that the occupier would be content to pay just so much more rent; for if, before he was relieved, the subject was worth what he paid in rent and rates, it would continue to be worth the same amount (rent *plus* rates), and the owner might be depended on to know it. Consequently it would be the owner who would benefit. Consequently it is the owner and the owner alone who at present bears the burden. This seems unanswerable, but let us try the effect of making the supposed case a little more definite.

Is it supposed that the owner is to be made liable for the rates when the occupier is relieved? In that case the owner, though he received the higher rent, would really net no more than he did when the occupier paid the rates and the smaller rent. No advantage would accrue to him from the change, and consequently there is no ground for the inference that he bears the burden. Or is it supposed that no rates are to be paid by either owner or occupier? Then we are supposing a thing inconsistent with the course of nature, and any speculation as to its possible concomitants and consequences is idle. This

is the science of Wonderland. What if the sea were boiling hot, and what if pigs had wings?

The fallacy involved may easily be seen if we suppose a simpler and yet quite possible case. Richard is the owner of a horse which he hires out to John at so much a week, John undertaking to feed it. John grumbles about what the feeding costs him. "My dear man," says Richard, "you don't really feed that horse. I feed him. I can prove it to you in half a minute. Just consider who would benefit if the horse did not require to be fed. You would just have to pay me more hire; in fact, exactly as much more as it now costs you to feed him. You would be willing to do so, or if you were not, some other man would, for that would be paying no more for the horse than he costs, one way and another, at present. So you see it is really out of my pocket that the feeding comes." Of course this is a demonstration in Wonderland. It was a horse that belonged to Richard. An animal like a horse but not requiring to be fed is not a horse, and nothing applicable to horses can be concluded from supposing a case in which it figures. The ownership of such an animal is not an ownership which Richard ever had or ever could have, but something wholly outside the observed order of nature. A conception of land ownership is often brought into arguments in political economy which is as chimerical as the horse which does not

require to be fed. Upon this conception ratiocination proceeds, and the curious conclusions arrived at are gravely produced as though they applied to land ownership as it exists. In arguing from supposed cases in such matters our suppositions must be within the bounds of possibility. We supposed that John had to feed the horse he hired from Richard. But suppose the practice of the district had been that in such cases the cost of feeding was to be equally divided. We can scarcely fail to see that this circumstance would have affected the market rate for the hire of horses. We might safely conclude that under a system of dividing the cost of feeding a horse would fetch a larger hire. This seems ridiculously simple, but much would be gained if it were recognised that a system of dividing the burden of a pound-rate equally between the owner and occupier takes effect on the rent or price current for the use of houses. Change the practice and we do not permanently relieve one class at the expense of the other. The market price of accommodation is affected, and the burden readjusts itself substantially where it was, either directly and immediately or indirectly through checking the supply of new accommodation till rents have risen sufficiently to afford the profit necessary to induce people to build.

The question remains, where is it? The answer seems to be that the burden of a pound-rate is dis-

tributed over the community substantially in proportion to income. To test the truth of this answer and yet avoid, if possible, the danger of slipping through a logical hole into Wonderland, we shall not attempt a demonstration, but merely consider how it accords with facts past and present.

Early taxes in England were, with few exceptions, conceived as a contribution for public purposes, taken from persons in proportion to their ability to pay; and ability to pay was measured by amount of pecuniary substance. The King's natural disposition to get the money he required where he could get it with least trouble, agreed well enough with equal treatment to all. The name of the national tax was expressly "a tenth" or "a fifteenth," meaning originally a tenth or a fifteenth of all property which could be counted and removed. In course of time a tenth came to mean to the men of a mediæval English town not a tenth of their whole substance, but a fixed sum of money, which the men of that town had to provide among themselves and hand over to the King; but the ratio of contribution indicated by the names "tenth" and "fifteenth" remained the same.¹ Town rates for local purposes were levied on the same principle of simple proportion to substance. So were church rates in parishes. But this did not mean that for every tax there was to be a preliminary valuation of every man's effects.

¹ Blackstone's Commentaries, Book I. ch. 8.

That might occasionally be attempted, but how tedious, how exasperating to all concerned, how futile the attempt must have been. If convenience suggested and justice required that every man's tax should bear the same ratio to his substance, it was a much simpler thing to fix his tax and then set down the value of his substance in proportion. And the learned Downing Professor of the Laws of England in Cambridge¹ tells us that this was indeed the true order of mediæval logic (Township and Borough, p. 141). How, then, was a man's contribution fixed? It was fixed at the "good discretion" of the foremost men of the neighbourhood, and naturally they arrived at it by considering—what there could be little dispute about—the man's style of living, the appearance of his dwelling-house and business premises (which in many cases would be united), or the rent or value of the land he farmed. In course of time it would be observed a tax roll made up on this principle came to the same thing as a tax roll made up on the principle of an equal pound-rate on all the inhabitants in proportion to the rent or annual value of the lands and premises they tenanted. No legislation was necessary to pass from the one system to the other, only a change in the mental process by which the con-

¹ The late F. W. Maitland.

tributions were fixed; and long after a pound-rate calculated on rent or annual value of lands and premises occupied had been adopted in practice, the individual assessments were, in theory, fixed by a general discretion. A formal departure from that principle was unnecessary, and might have been attended with difficult questions, which did not arise as long as there was behind all the assessments the unchallengeable "good discretion" of the distributing Commissioners or overseers. As long as the overseers kept the principle of assessment undefined things would go well enough, for the principle of a pound-rate was a good one for general use, and the discretionary power was there in the background to endorse or, if necessary, to modify the results.

Into such a system ownership of lands and houses enters precisely in the same way as other ownerships for which it is exchangeable at market prices, namely, as naturally finding its expression in the taxpayer's style of living. Accordingly Professor Maitland, making a study of the facts in regard to the town of Cambridge, finds that in the tallage of the year 1219, Hervey Fitz-Eustace Dunning and Baldwin Blancgernon, who were the men holding most land within the vill of Cambridge, are not the men who pay the heaviest sums. Fourteen persons pay more, the

largest sums being against the names of Richard at the Gate, Richard of Barnwell, and Bartholomew the tanner—men who, Professor Maitland finds, “leave but little mark upon the titles to lands and houses” (Township and Borough, p. 168).

In the course of the movement from a purely discretionary assessment to an assessment in proportion to rental of premises occupied, questions were bound to come up for judicial decision. The system of assessment by a pound-rate was evidently well established when one Jeffrey made it the subject of judicial comment over a church rate. Jeffrey was owner and occupier of some 130 acres of land in the parish of Hailsham, but he did not reside in that parish. He objected to be rated for repairs to Hailsham Church on the annual value of these lands as if he were a parishioner. The Court decided that he was legally assessed, “forasmuch as he had lands in the parish of Hailsham in his proper possession and manurance.” But it decided more than that, and to some extent justified Jeffrey’s appeal. The churchwardens are said to have claimed that Jeffrey was assessable because he occupied “or received rent for” the 130 acres. This was going too far. Jeffrey contended that it would be “against law and reason, and against the common experience of all England, that he should

be taxed if he let the land." The Court supported him here, and laid down that "where there is a farmer of the same lands the lessor who receives rent for them shall not be charged for them in respect of his rent, because the receipt of the rent doth not make the lessor a parishioner." This was in 1589.¹

Jeffrey's blunt argument goes to the heart yet. He is reduced to few words—can only point to the practice, which he instinctively feels is grounded in law, reason, and experience. There was little written law to appeal to. In the brief statutes and resolutions imposing early taxes, a practice is assumed. There is hardly any definition of the class or classes of persons who are to contribute, and hardly any definition of the principle on which their individual contributions are to be fixed. "Parishioners," "inhabitants," "men of the county," "holders of lands and tenements," "all having the possession of any lands or tithes," so runs definitions of persons, and for principle of apportionment we have "according to the quantity of their possessions and revenues," "according to their ability and possessions, privileged persons, sick and mendicant poor only excepted," "in due

¹ Professor Edwin Cannan's "History of Local Rates in England," pp. 24-26. From this source the other facts here given as to rating in England are chiefly drawn.

and proportionable manner according as rates, tasks, and tallages have been before this time used to be rated and levied, or as near thereunto as may be," "having good and indifferent respect to the abilities of them and every one of them." Even when we reach the Act 43rd Eliz. c. 2 for the Relief of the Poor, which regulated the English poor rate for more than two centuries, the indefiniteness is very noticeable. It is there provided that the overseers of every parish shall raise the money required "by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes, coal mines, or saleable underwoods in said parish, according to the ability of the parish." Absolutely nothing is said as to ratio of contribution as between individuals, for the phrase "according to the ability of the parish" has reference to the comparative ability of different parishes. But if two different methods of assessment were then in use, namely, assessment at good discretion, and assessment by a pound-rate in proportion to value of lands and premises occupied, giving practically the same result as regards the contributions demandable from individuals, the indefiniteness of the Act becomes intelligible. All attempt to enforce a strict uniformity of practice was thus avoided. If there were a good many places where the purely dis-

cretionary assessment had not been superseded, or had been only partially superseded, by the pound-rate system, there was nothing in the Act to make the continuance of the existing practice illegal. Accordingly what happened was that, though generally the money was raised by a pound-rate, yet here and there, at irregular intervals and in an uncertain fashion, people were assessed for the relief of the poor partly in proportion to their supposed substance, and partly on the system of a pound-rate.

But though the practice of raising local taxes by a pound-rate made its way, its true justification was not clearly recognised. Lawyers especially clung to the idea that a tax should be distributed from a direct consideration of the possessions or revenues of the persons liable. It was not seen that a pound-rate in proportion to the annual value of lands and premises occupied was really a short and simple method of getting at the same result, and one which, if accepted at all, had to be accepted out and out. There were practically two ways, a long way and a short way, by either of which one arrived, tolerably clean and comfortable. To straggle from one way to the other was inevitably to get among bogs and thickets. Unfortunately, the words of the Act 43rd Elizabeth, regarded strictly from the judicial point of view, seemed to be inconsistent with a pure and sole

pound-rate from occupiers. Why was the word "inhabitants" used in addition to "occupiers" if there was not to be some measure of assessment different from, or supplementary to, the annual value of subjects occupied? If something else was to affect assessments, what was this something? The case of *Earby* (1633) decided that it was not rent *received*, nor was it property of any sort belonging to the taxpayer in any other town or parish, but the terms of the judgment indicated that it was the whole visible estates of the inhabitants, both real and personal. If this meant a combination of a pound-rate with something else to modify the result, then it was neither the long way nor the short way; it was the way of bogs and thickets. Consequently most of those who had to make their way and not merely to declare how it must be done, made it as before by a pound-rate only. In assessing for Poor Rate (we are told by Prof. Cannan, p. 86), no notice was taken of anything but lands, houses, tithes, coal mines and saleable underwoods except in a few places where a system of assessing in respect of stock-in-trade, in addition to the pound-rate, existed from the earliest establishment of pound-rates down to the eighteenth century. Towards the end of the eighteenth century further judicial decisions were pronounced which made it perfectly clear that the law required an assessment to be made in respect of stock-in-trade, but it does

not appear that such assessment was made any more than before. At last, in 1840, came the decision that the overseers must make an assessment in respect of stock-in-trade otherwise the rate might be successfully appealed against. The impossibility of getting the law observed was thereupon universally recognised. The short cut which nearly every one persisted in taking had to be legalised. An Act was passed (3 & 4 Vict. c. 89) making it not only unnecessary but illegal to assess for relief of the poor in England in respect of stock-in-trade. The step was, however, attributable to administrative exigencies rather than to a clear recognition of the rationale of the pound-rate. The Act passed was to expire in a year, and the legislature has been content to renew it yearly since 1840.

Did the 43rd Elizabeth c. 2 intend anything else than a pound-rate? Probably not; or, if it did, it meant to leave open as an alternative, and not as a supplement to the pound-rate, the old system of assessment by good discretion, based on the ascertained or reputed means and substance of the inhabitants. It is curious what intentions

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have been found in this Act. Judge O'Connor sees in it an intention to lay the burden solely on interests in land and houses, and to avoid laying the burden on personal property. Now everybody has a certain interest in at least one house, but the use of the expression "land and houses" in contrast

to "personal property" shows that the learned judge has in view interests in the nature of ownership. With all deference, the words "every inhabitant" and "every occupier" surely exclude Judge O'Connor's construction. The other Commissioners are nearer the mark when they say that the theory which underlay the Act seems to have been that the rates were to be a kind of local income tax. But they assume that rates lost the character of an income tax when it became the custom to levy them only in respect of the real property in the parish. The case is exactly the contrary. The expression "in respect of real property" is ambiguous. Rates were not levied in respect of real property in the sense of being levied in respect of the *proprietorship* of real property. They were levied in respect of the *occupancy* of real property, and it was this that gave a pound-rate the character of an income tax. Rates were *measured* by rent, but were paid out of the occupier's income, from whatever source, just as rent and other household expenses were paid. They were contributions from practically all persons who had acquired or inherited the means of living; and they were contributions if not accurately at least roughly in proportion to income. If it be granted that a pound-rate so levied is practically an income tax, then to supplement the rate by another tax based on the proportions in which the several ratepayers hold one

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particular class of property (as, for example, stock-in-trade) does not make the result more accurate as an income tax, but, on the contrary, less accurate. Perhaps a perception of this fact as much as the practical difficulty of assessing in proportion to movable property was at the bottom of the general repugnance to the course of combining with a pound-rate an assessment in respect of stock-in-trade, or, as it is somewhat unfortunately termed, "rating on stock-in-trade."

The movement from a system of discretionary assessments based on the reputed value of a man's property, or his general style of living, to a system by which the rent or annual value of the premises he occupies is used as a final measure of assessment, accorded well with the natural development of social life, partly because it afforded a smooth and easy transition from taxation in proportion to property to taxation in proportion to revenue. As long as taxation comes in irregular amounts at irregular intervals property rather than income is its natural measure; but when it becomes steady and annual the tendency is to pass to revenue as the measure of contribution, just as income or revenue, rather than capital or substance, tends to become the measure of ordinary domestic expenditure. Even in the times when the contribution to public services was fixed by "good discretion," or "will and doom," there were signs of such a transition. One of the old rates already

referred to was to be paid by parishioners, "according to the quantity of their possessions and revenues which they have in the parish." "Possessions" is an ambiguous word. It may mean "possessions" in the sense of lands or premises tenanted at a rent, or it may mean "possessions" in the sense of property of any sort owned. In either sense of the term possessions, quantity of possessions and quantity of revenue are two different measures, and the use of both terms indicates a period of transition. Possibly there was a time when it was not very important which of the two measures was used. Prof. Cannan says, "The man who has a large income without having a large capital is a product of modern civilisation." But as he made his appearance the pound-rate was ready to deal with him, and practically upon his own valuation—the rent or value of the premises he could afford to occupy.

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p. 22.

Another direction in which the development of social life tended was the separation of business premises from dwellings, and greater diversity in the value of business premises. Here, again, if we are right in what we have said as to the incidence of rates levied from the occupiers of business premises, the system of a pound-rate met the requirements of the case. If the substantial incidence of that portion of a universal uniform pound-rate is upon the persons using the articles

for the production or sale of which the premises are required, then it is not merely by expenditure on house rent, or occupancy of lands and houses owned by himself, that a man subjects himself to rates. He pays rates as truly, though indirectly, in proportion to what he expends in the many other ways—that is to say, he pays rates substantially in proportion to his income, and his total contribution is by the very nature of the case spread proportionately not only over the various places in which he may temporarily reside, but over the various places in which are situated the business premises required for the production and sale of every article he uses.

There remains the question, ought taxation to be in proportion to revenue?

Again, anything like a demonstration would be too much to attempt; and perhaps the root of the matter lies not so much in incontrovertible logic as in an instinct of right judgment. The great writer, who is sometimes termed (by way of compliment) the father of political economy, delivers his opinion in these terms—

I. The subjects of every state ought to contribute towards the support of the government as nearly as possible in proportion to their respective abilities; *that is, in proportion to the revenue they respectively enjoy under the protection of the State* (“Wealth of Nations,” Book V., ch. ii., part ii.).

Adam Smith seems to have taken this as a judgment of instinct, for he does not stop to defend it.¹

To many persons a system of taxation needs no other condemnation than that it bears equally, or in simple proportion according to income, on all classes, poor as well as rich. This, they tell us, is to "grind the faces of the poor." Their ideal is a system by which the burden would be borne wholly, or almost wholly, by the rich; and they fancy that the realisation of this ideal is prevented chiefly by the prevailing distribution of political power. The persistent tendency towards equalisation of unequally levied taxes by undesigned readjustments in market rents, wages, and prices, which can be perceived to some extent and is probably in operation to a much greater extent than can be perceived, presents itself to them as something to be resisted or circum-

¹ Much that follows in the "Wealth of Nations" is wholly out of relation to this proposition, as the author himself admits. He writes:—"Every tax, it must be observed once for all, which falls finally upon one only of the three sorts of revenue above mentioned, is necessarily unequal, in so far as it does not affect the other two. In the following examination of different taxes, I shall seldom take much further notice of this sort of inequality, but shall, in most cases, confine my observations to that inequality which is occasioned by a particular tax falling unequally upon that particular sort of private revenue which is affected by it."—"Wealth of Nations," same page. The three sorts of revenue are "Rent, Profit, and Wages."

vented. They perplex themselves trying to think of a tax which will not shift. The chief characteristic of a tax which is unequal and yet does not shift, if such a thing is realisable at all, is uncertainty in period and amount; and under such taxation poverty and misery do not disappear. There may even be grounds for suspecting that the operation of the power which works quietly but ceaselessly for equality in taxation is more favourable to wage-earners than our blundering patronage.

The five Commissioners who sign the Report on Urban Rating and Site Values start with no better grip of the rationale of rates than the others who sign the main report. They adopt the fundamental error of the main report, that rates are a payment "in respect of immovable property," and "limited in their incidence." In this separate report they discuss, and in the end unhesitatingly condemn, the schemes submitted to the Commission under the name of taxation of "site values," "land values," or "ground values," finding these schemes neither workable nor equitable as applied to existing contracts. But having got so far, they face the other way. "A system of direct charge upon owners" they declare to be desirable, "at any rate on political and sentimental grounds, however little effect such a change may have upon the real incidence

of taxation." One would expect them to recommend a scheme for placing a direct charge upon owners. But they do not. Their scheme is to place another charge upon occupiers, or, at best, half upon occupiers and half upon owners. "It is not a fallacy," we are told, "to think that urban site value is a form of property which, from its nature, is peculiarly fit to bear a direct and special burden in connection with 'beneficial' local expenditure." One would expect them to recommend a scheme by which, in their opinion, a direct and special burden will be placed on urban land. But they do not. They explain that the advantage of the new site value rate they recommend is *not* that owners of urban land will contribute more heavily to public expenditure. It is that there will be a local redistribution of the present burden, so that (in their view) some owners will pay more than they do under the present system, and others less. Owners in the centre of a town will pay more, while owners in the outskirts will pay less, which circumstance, the Commissioners suppose, will encourage building. The increased burden at the centre of the town will not stop building there. It will merely "prevent the site owner obtaining so much rent." It is hard to see how a scheme by which the legislature steps in to prevent the site owner obtaining so much rent will prove encouraging to builders who think of

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becoming site owners. The consequence to the owner of the class of property specially taxed is obvious. His property is at once depreciated in selling value in proportion to the diminution of the return from it. We do not by the new tax impose a greater burden on urban land, or even on central urban land. We only reduce the value of the property of certain individuals—those namely who happen to be owners of central urban property when the new tax is promulgated. No doubt the burden passes to a purchaser, but the purchaser has indemnified himself by getting the property at the reduced market value resulting from the new burden. To an occupier the whole juggle means no decrease of rent, but a good chance of increase by making the profits of building precarious. On the other hand, if the present owners of outskirt land are (as the Commissioners think) to get a substantial benefit in the local redistribution of burden, this means that their property will suddenly become proportionately increased in its selling or feuing value. It appears to be assumed that they will make a present of this additional value to the first person who may wish to feu or lease ground for building. Is it quite certain that this rather unusual generosity will prevail? More probably such owners will reflect that if to-day they receive an unexpected advantage, to-morrow they may be the

victims of a bewildered legislature. It is claimed that the scheme "would, or at least should, conduce to the removal of some of the widely spread misconceptions which seem to prevail not only in political circles, but among economic authorities and responsible statesmen." Apparently, then, the function of the new tax is to dispel illusions. It is to be a success in virtue of proving a failure. But are political illusions to be dispelled in this way? We shall be told that the principle has been conceded, and that the failure has been owing to feebleness and timidity in applying it.

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The Final Report (Scotland) is chiefly notable as containing a recommendation that rates should in all cases be levied in proportion to net annual value, and not in proportion to rent or letting value. In Scotland most rates are levied upon the full rent or letting value, but the poor and school rates are levied on net annual value, which is defined in the Poor Law Amendment Act of 1845 (8 & 9 Vict. c. 83, section 37) as "the rent at which one year with another, such lands and heritages might in their actual state be reasonably expected to let from year to year under deduction of the probable annual average cost of the repairs, insurance, and other expenses, if any, necessary to maintain such lands and heritages in their actual state, and all rates, taxes, and public charges payable in respect of the same." The Commissioners

are of opinion that if all rates were levied upon the same value the rating system would be "greatly simplified and more thoroughly understood"; and they recommend that the net annual value as being, in their opinion, fairer to all classes of ratepayers, should be the value adopted both for owner's and occupier's rates. One would have supposed that the Commissioners, being baffled by the problem of incidence, would have considered it unimportant whether ratepayers were rated in proportion to rent or in proportion to net annual value, and would have preferred the simpler measure. But to those who accept the view of rates here presented, rating on net annual value appears not only troublesome but misleading. It serves no purpose, and it has a good deal to do with the confusion which the Commissioners recognise and deplore. The attention of the Commissioners was directed to the fact that the valuation authorities in London and elsewhere rendered nugatory the statutory direction to rate on net annual value, by deducting a uniform percentage from all rents. Instead of seeing in this circumstance the revolt of common sense against a statutory ineptitude, the Commissioners propose to "urge" valuation authorities to base the deductions "on the actual circumstances of each case." We suspect valuation authorities will take a good deal of urging before they do anything so purely vexatious and useless.

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The statutory direction to rate for poor relief in proportion to net annual value was based on an intelligible though mistaken theory. It appears for the first time in Scotch legislation in the Poor Law Amendment Act of 1845.¹ That Act was based on the report of the Poor Law Commissioners of 1843, in which it is laid down as something unquestionable that all rates, whether levied from tenants or landlords, are equally a burden on rent (Report, 1843, p. 27); and that to rate the landlords instead of the occupiers did not involve the imposition on them of any new burden as an entire class (Report, 1843, p. 95). If landlords and landlords only ultimately bore the whole rate it was excusable to conclude that the ratio of contribution should be net annual value. The present Commissioners make very slight reference to the Report of 1843, but their view of the incidence of rates, so far as they can be said to have any, is different. The Commissioners of 1843 held that the burden of rates was wholly on owners, and so they recommended rating on net annual value. The Commissioners of 1902 regard the burden as borne partly, and perhaps mainly, by occupiers (for the complaints

¹ "Net annual value" as the measure of assessments makes its first appearance in the Statute Book in the Parochial Assessments (England and Wales) Act of 1836 (6 & 7 Will. IV. c. 95).

of occupiers are accepted as well founded). yet they propose to make the sum demanded from the occupier depend upon the net annual value of the subject to the owner. As an example of how this would work, take the case of a man who is looking out for a house. He confines his attention to such as he thinks suit his circumstances. Ultimately he finds his choice lies between two houses of the same rent, within the same assessable area, one a new, well-finished house, with all the latest arrangements for the comfort and safety of the tenant; the other old and a constant source of trouble and expense to its owner, but larger in size or having attractive characteristics of its own on account of which it lets for as much as the other. There is no rational ground upon which to say that the contribution of the householder towards the expense of public services should depend in the slightest degree on which of these houses his taste inclines him to prefer. By the present law his contribution to every rate, except Poor and School rates, would be the same whichever he chose. The Commissioners think it would be "fairer" that his contribution should depend on what the owner of the house he chooses clears from it annually after paying necessary outlays, a matter with which the tenant has no concern, but one which the owner of the old house no doubt took into consideration when he bought

it, and the owner of the new house also considered when he bought it or built it. But let us suppose the law is changed as the Commissioners recommend. If the resulting difference in the tenant's contribution in rates is infinitesimal (as it would be in many cases, for of course the rate per pound would have to be raised in consequence of all the values being lowered), we have only put everybody to a great deal of trouble to no purpose. If it is substantial, we have made the old house worth more rent than the other because its occupancy now carries with it a smaller burden of rates, while the occupancy of the new house necessarily carries with it a correspondingly greater burden. That is to say, we have enabled the owner of the old house to get a higher rent for it, and compelled the owner of the new house to take a lower rent for it, leaving it as before a mere matter of taste to a householder which of the two he should prefer. After an infinitude of trouble we have as the net result a benefit to the owners of old houses at the expense of the owners of new houses ; or, if it be the case that even a substantial alteration in the amount of rates does not, as a matter of fact, move rents, then we have benefited certain occupiers at the expense of other occupiers, upon a principle having no relation whatever to their respective ability to pay. This is the change which is recommended by the Commissioners

in the name of simplicity, fairness, and intelligibility.¹

In England all rates are levied from occupiers, at least those levied from owners are inconsiderable in amount. In Scotland many rates are levied one-half from owners and one-half from occupiers. The poor and school rates are so levied, and many burgh and county rates are also levied in that way, or (which comes to the same thing) are levied wholly from occupiers under statutes entitling them to deduct half of the assessment from their rent. Perhaps in Scotland we are too ready to pride ourselves on this system of division between owner and occupier as another instance of the superiority of our institutions. It may have some advantages, but it puts a stumbling-block in the way of coming at the true rationale of the rating system, for it suggests that owners of heritable property as a class ought to contribute among them one-half of the cost

¹ In the Scotch parish best known to the writer (the parish of Rothesay), it seems to have been thought impossible that the legislature really intended that occupiers should be rated on the net annual value of the premises to the owner, for occupiers were rated for relief of poor on the full rent or letting value from 1860 (when assessment according to means and substance was given up in this parish) till 1900, when in deference to persistent urging by the Local Government Board, long resisted by a clear-headed and resolute chairman of Parochial Board, the practice of rating on net annual value was adopted.

of public services, and occupiers as a class the other half, and that this mode of levying rates secures the desired result. That is to say, it suggests a false principle and a false impression of the facts. It is, in truth, not a system but a combination of two different systems of taxation which may be roughly distinguished as the feudal and the burghal. Before the period of taxation by tenths and fifteenths there was an earlier period when taxation was measured by extent or value of land held, and not by quantity or value of movables. This did not mean that the landlord bore the whole burden of taxation, for the landlord or freeholder of land who was taxed was in his turn a taxing authority, so that with every tax a demand of one sort or another passed down through all grades of society.¹ Possibly in actual working this was a supportable approximation to taxation

¹ Feudal government was "a graduated system of jurisdiction based on land tenure in which every lord judged, *taxed*, and commanded the class next below him" (Stubbs' Constitutional History of England, Vol. I. p. 256). Of the oppression under William Rufus, the same writer says: "Not less heavy was the King's hand on the body of the people. On them, in the first instance, fell the burden of the imposts laid on their feudal masters. It was from them by similar exactions of reliefs, wardships, marriage, and forfeiture that the vassals raised money to redeem their own rights, every wrong that the King inflicted on his vassals they might inflict on theirs" (Vol. I. p. 301).

in proportion to means and substance, though it afforded little or no safeguard against oppression where there was a disposition to oppress.¹ It does not seem to have been superseded in Scotland, as it was superseded in England, by a system of tenths and fifteenths. The other system of taxation was that which prevailed in the towns, the principle of which is indicated in one of the articles to be inquired into by the King's Chamberlain on visiting a burgh, which runs thus—

¹ Originally the distribution of a tax would be arbitrary or regulated only by custom, but as legislative enactments grow more definite they begin to contain attempts at systematic proportionate relief. The Scottish Act of Convention of 28th July, 1678, for a supply to His Majesty of twenty-five months' cess, to be raised in five years by five months yearly, contains the following clause:—"And His Majestie with advice and consent foirsaid Statuts and ordains that for the Relief of the Heretors and others lyable in this supplie Their Vassalls and ffewers who pay no pairt of the cess, and also their Tenents, Sub-tenents, and others living upon their lands shall be taxed and pay in to the said Heretors yearly each one of the said ffive yeers the soums of money following, viz.—Each Gentleman above the qualitie of a Tenent the soume to be appointed by the Heretor, not exceeding six pounds scots for himself, his wife and children; each Tenent and other Inhabitant above the qualitie of a Tradesman, Cottar, or Servant for themselves and their wyves and children any soume not exceeding ffour pounds scots. And each Tradesman, Cottar, or Servant any soume not exceeding twenty shilling scots. And it is ordained that the Heretors shall have the same execution for raising the saids soumes as for their mealls and duties."

“Also anent taxations in burghs, gif they be equallie imposit upon the ritch and puir conforme to their means [*super divitiis et pauperibus juxta eorum facultates*].”¹ The burghal stent was thus a discretionary assessment, ostensibly in proportion to means and substance, but practically apt to resolve itself into a pound-rate on rent paid. The combination of the two systems appears first in a Scottish Act of 1663 providing for the employment of vagabonds and authorising a parochial assessment for that purpose, one-half leviable from the heritors (that is, owners of lands and heritages), and the other half from tenants and possessors according to their means and substance. A Privy Council proclamation for relief of the poor was issued in 1692 directing an assessment “one-half upon the heritors and the other half upon the householders of the parish,” and another in 1693, commanding magistrates in burghs to raise the necessary funds for the poor in accordance with established usage, and in such a way “as may be most effectual to reach all inhabitants.” These all following an unobserved but unrepealed Act of 1579 for a poor’s assessment to be raised from “the whole inhabitants within the parish, according to the estimation

¹ “Articuli Inquirendi in Itinere Camerarii,” in the volume entitled “Ancient Laws and Customs of the Burghs of Scotland,” Edinburgh, 1869, p. 119.

of their substance without exception of persons," gave rise to different local practices for raising the necessary funds by a dual assessment leviable partly from owners and partly from occupiers.

p. 3. In burghal assessments the dual basis makes its first appearance as lately as 1833 in connection with taxation for the cost of prisons. The point to be noticed is that originally there can have been no thought of reaching one class of persons exclusively by one of these assessments and another class exclusively by the other. It must have been perfectly well known in Scotland from the experience of national taxation that assessments levied from owners would practically be drawn from the whole community. This was the case when taxation was uncertain in time and amount. It was no less the case when taxation became steady and calculable, and consequently formed an element in bringing about the market rates current for the hire of lands, houses, and business premises. It must have been equally obvious that the other assessment (on "occupiers" or "inhabitants"), whether it was truly discretionary or only ostensibly discretionary and truly a pound-rate on rent paid or value of subjects occupied, reached the whole community; for owners were necessarily occupiers somewhere, and generally occupiers where their land interests lay. Yet these considerations are often lost sight

of, and it is widely supposed that a pound-rate levied from owners is a method of drawing a contribution exclusively from owners, and that a pound-rate levied from occupiers does not bring owners under contribution.

It was such misconceptions as this which one ventured to hope might be removed by the report of this Royal Commission; not indeed by a unanimous report commanding universal assent, which probably nobody was so sanguine as to anticipate, but perhaps by a report which, however few the signatures it bore, might at least prove the seed of truer views. That hope has not been fulfilled, and we have a series of reports which by their evident and indeed confessed failure to trace the system of rating to any rational foundation, can only make confusion worse confounded and encourage schemes which must have results quite different from what their promoters intend.

The writer is, of course, aware that any appeal to fundamental principles is foreign to the genius of British statesmanship and to a large extent thrown away. By all means let equity be relegated to the schools: 'twas Lord Salisbury brought it thence on this occasion, and rather inconsiderately. Here is a great system of taxation, not suddenly adopted on a theory of equity,

but beaten into shape by long and hard experience. It is simple, open, and economical in its operation. Complications and hair-splittings are avoided, and arbitrariness reduced to a minimum. It brings under contribution all who share the rights and benefits of citizenship. It takes from each, upon a single easily-applied principle, a contribution at least roughly proportionate to his ordinary expenditure on other things. Uncertainty, corruption, vexatious disputations and inquisitions are escaped. To these advantages practical sagacity will hold on, leaving it to natural forces to work out the niceties of equity. Perhaps the earth brings forth that fruit also of herself. Anyhow, we must content ourselves with supportable approximations—with that which works best on the whole; and to pursue highly disputable conceptions of equity at the expense of simplicity, certainty, and economy, is to run great risk of losing even so much of it as we have.

ON THE INCIDENCE OF RATES IN TOWNS.

THERE is often an air of artificiality about arguments upon such subjects as the incidence of taxation, owing to the free use of supposed cases in which the conditions are simplified and abstracted till they cease to resemble the cases which exist. To avoid this there will be here kept in view the case of an actual town, which, for convenience, and in order to indicate that any other town would serve the purpose, will be called Exburgh.

A rate, or tax calculated at so much per pound of rent, may be levied wholly from the occupier or wholly from the owner of the premises, or partly from the occupier and partly from the owner. In Exburgh the burgh rates (with certain trifling exceptions) are levied from the occupiers, but the occupiers have the right to deduct one-half of these rates when paying their rents, so that practically half is levied from occupiers as a class and half from owners as a class. The parish rates (for Relief of the Poor and Education) are levied directly, half from owners and half from occupiers. There

is an appearance of equity about this equal division, but it is worth considering whether the burden of the rates ought to bear equally upon these two classes, and whether, in virtue of the rates being so levied, it does bear equally upon them.

The cardinal principle to which, as a whole, taxation should conform is that members of a state (and a burgh may for this purpose be regarded as a miniature state) should contribute to the expenses of the public service in proportion to their respective free incomes. This is what is meant by equal taxation. A different principle has been suggested, namely, to aim at "equality of sacrifice," but it is not easy to know exactly what is meant by that phrase, or what sort of taxation would realise the principle it is supposed to define. It is understood to point towards a system under which A, whose income is double that of B, will pay more than double in taxes, but how much more than double we are not furnished with any serviceable criterion for determining. That the taxpayer's total contribution should be in proportion to his free income seems reasonable, and is at least intelligible; and possibly the reason why all taxation is not imposed in the form of an income tax is that in actual working a mixed system of taxation realises that principle better than a pure income tax. If the principle be a sound one, then the equity of levying from occupiers of rateable subjects one-half of the

amount required for the public services and from owners the other half, appears very questionable. For if a tax comes out of the free incomes of those who compose the class from which it is levied, then to demand half of it from occupiers and half from owners is equitable only where the total of the free incomes of the class "owners" is equal to the total of the free incomes of the class "occupiers." No such equality exists. The two classes are not mutually exclusive, many owners being also occupiers; but even if we class as "owners" all those who are owners, whether they are occupiers or not, the total free incomes of the class "occupiers" must be many times the amount of the total free incomes of the class "owners." On the other hand, if it is admitted that the burden may not rest upon the class from which the tax is demanded, then the equal division of rates between "owners" and "occupiers" does not raise any presumption of equity. The equity, if it exists, is only a singular coincidence.

That there are taxes the burden of which does not rest upon the class from which they are levied is a truism. Any one paying attention to the effect of the taxation of consumable commodities will observe a close connection between the tax paid upon a taxed commodity and the market price of the commodity. Speaking generally, if the tax is raised the market price rises, and the increased

amount paid by the manufacturer or importer as tax or duty is repaid to him by the consumer ; so that it is not out of the free income of the taxpayers but out of the free income of the consumers that the tax comes. Various circumstances may partially counteract the tendency to balance increase of tax by increase of price, but generally speaking it is balanced, for otherwise it would not pay to sell the commodity. On the other hand, a decrease of tax usually results in a lower price. It is reasonable to infer that a similar connection exists between a tax calculated on rent and the market price of house accommodation for a limited period, which is termed rent. Although houses are not consumable commodities in quite the same sense as ordinary merchandise, they are perishable commodities which are freely bought and sold just as merchandise is ; and though house rent is not so mobile as the prices of merchandise, it is re-adjustable at intervals. To produce actual cases exemplifying the connection between house-owners' taxation and rent may not be easy, as there are many circumstances which influence rents. Meantime it may at least be said that analogy suggests a close connection, and facts do not contradict it.

To this it may be answered that the variations of taxation on rental are too minute to affect rents ; that rents are influenced by the demand for houses ; that if the supply is not sufficient to meet the

demand, rents will rise till the demand is checked or the supply increased, irrespective of taxation. But we are not asserting that variations in taxation play the chief part in influencing rents, or that they affect rent directly and immediately. Probably the slight variations in the amount of local taxation are seldom present to the minds of persons bargaining about rent, and would hardly be admitted to be relevant to the question. Rent is generally fixed by an owner, and acquiesced in by a tenant, simply by comparing the premises with others available. But the man who builds houses to let them is not likely to overlook the owners' local rates. He builds houses as an investment of capital. He will not build unless rents stand at a figure which will afford him as good a return as he could get by investing his capital in other ways involving no greater degree of trouble and risk. If part of his necessary annual outgoings is taxation levied upon him as a proprietor, he will take that into account before beginning to build. If such taxation is increased after his houses are built he will raise his rents if he can, being probably of Selden's opinion that not to take the full rent is vanity and folly. If the state of the market is such that he cannot raise his rents, this means that unless it happens that the cost of building decreases it will not pay to build in that place. Consequently no more houses will be built till it

pays; that is, till by restriction of supply or increase of demand, to whatever causes attributable, rents have risen sufficiently to cover the increase of taxation and give the investor his reasonably expected profit over and above. The fact that building goes on in the face of increasing taxation levied from proprietors is evidence that rents have risen, or may be depended upon to rise, sufficiently to enable a person building as an investment to get the owner's rates from his tenants in the form of rent and still have a fair return on his capital, that is to say, a return as good as could be got from other modes of investment, taking all advantages and disadvantages into account. That rates do vary to an extent which appreciably affects the net return from a building investment may be exemplified by the case of Exburgh, where the burgh rates (for police, public health, roads, &c.), equally divisible between owner and occupier, rose from 1s. 1¼d. in the pound in 1876 to 1s. 11½d. in 1896. Taking into consideration that the usual way of investing money in building is to borrow about £200 out of every £300 which the building costs, and that neither interest nor feu-duty is reduced as rates increase, the effect of an increase of rates upon the annual surplus which is the return on the investor's capital may be considerable.

If this view of the incidence of rates be sound,

it is a mistake to suppose that to levy half from owner and half from occupier secures that half the burden is borne by owners. No method of levying taxes on rent can secure that for any length of time. But it would be as great a mistake to suppose that there is anything unjust in occupiers having to bear the whole burden. If it be granted that every one should contribute to the cost of public services in proportion to his free income, there is no better measure of a man's free income than the rent of the house he lives in. It is not a perfect measure, but it is simple and open, and most of its apparent defects disappear upon examination. Absentee owners escape; but if they escape taxation in Exburgh they are taxed where they reside, and others are taxed in Exburgh who draw their incomes from elsewhere. It is a measure which applies with equal ease and justice to all, proprietors and occupiers. A man might be taxable as the owner of a large amount of house property and yet not have a very large free income, if he had built with borrowed money or agreed to pay heavy ground annuals. "What an unjust thing," he might say. "Here am I, not so rich as some of my tenants, and yet I pay as much in taxes as all my tenants put together, besides the whole taxes of my own dwelling-house." What is the answer? Obviously it is this. You do not really bear that large amount; your tenants pay it

through you ; if you did not pay it your houses would be drawing less rent. In reality you only pay taxes on your own house rent, that is to say, in proportion to your free income ; and your tenants pay taxes on their house rents, that is to say, in proportion to their incomes.

It may be objected that we do not tax the rents of houses only, but the rents of business premises also, and that this plays havoc with the theory that a tax on rents is substantially a tax on free income, because expensive business premises are necessary in some occupations and not necessary in others. And it may be said that in some places, of which Exburgh is an example, not a few houses are really business premises and are no criterion of the occupier's income. At first the objection seems plausible, but on looking at the matter more closely it will appear that, so far from conflicting with the principle which justifies taxing rents, the inclusion of business premises as rateable subjects makes taxation in proportion to rent realise more closely than it otherwise would the conception of a tax proportionate to free income. Taxation on the rent of business premises, payable by the owner of the premises, is one of the necessary outgoings taken into account by those who invest money in providing business premises for letting, and such premises are not provided unless a rent can be got which will afford payment of

such taxes without trenching upon the investor's reasonable profit. Consequently, though paid in the first place by the owner, the owner gets the money from the occupier in the shape of higher rent. But the money does not come off the occupier's free income, or at least it does so only till the operation of inevitable tendencies has brought about a juster incidence. The rent and taxes of his business premises is just one item of business expenses, and a man does not enter upon or continue in a particular business unless there is a good prospect of paying all expenses out of his gross revenue, and having a fair amount left over for his own support and enrichment. If a certain business is for a time exceptionally profitable this soon comes to be known; people are attracted to it, and under the operation of competition profits fall to a normal figure. If a business has become exceptionally unprofitable, people drop out of it or do not enter it, and profits rise, the prices of the articles produced or the accommodation supplied tending to fluctuate about the point at which they are sufficient to leave a fair profit after all business expenses, including wages of employees, rents and taxes, are met. These expenses do not, in ordinary circumstances, come out of the business man's free income; they come out of his customers' free incomes. Therefore the man who does not live in a house as large as his income would justify does

not escape his just share of taxation. He expends his income somehow, or he invests it or puts it in bank, which is practically handing it over to some one else to expend for him. It cannot be expended without helping to pay the taxes of the business premises in which it is expended, and the taxes of various other business premises which were necessary for the production of the articles bought, so that this man also pays taxes in proportion to his free income. In the case of a man whose house is also his business premises, it is equally clear that unless he has the misfortune to be engaged in a business which is temporarily unprofitable, the taxes on his house, so far as it is business premises, are paid by his customers.

Many appear to think of rent as arbitrarily fixed by the cupidity of owners, and occasionally modified by the few who find it their pleasure or their interest to be a little more liberal. Cupidity and generosity may cause eddies here and there in the stream, but cannot do more. There is always a current rate which, though varying from time to time, is not arbitrary. Like everything else it depends ultimately on tendencies inseparable from the nature of things. These tendencies and their complicated interaction it is impossible to know fully and exactly, but we can work some little distance towards them, and in this, as in other directions, reach serviceable results. In one view

the current rate of rent is entirely the result of comparison. Rents of houses in Exburgh are compared with each other and with rents elsewhere, but it is the general rate of return to capital operating quietly below the surface which influences the supply of house accommodation, and so controls the current rate of rent. It is true that increasing population must be accommodated somewhere, but as society is constituted—and it is hard to imagine it constituted otherwise—men do not come forward to provide accommodation at a loss to themselves, or at any less profit than they can get for their money otherwise, taking all considerations into account. The additional accommodation is only supplied where the increasing population can pay for its accommodation at such a rate as makes it profitable to supply it. This is not to say that rents are regulated by the amount necessary to give a fair return on the cost of houses which have been erected. Once the house is built the owner must take his chance of realising his expected return. He must take what rents are going or be content to have his houses empty. But if from whatever circumstances rents are much less or expenses much more than he anticipated, it is unlikely that more houses will be built there in the meantime. A temporary cessation of building, which inevitably follows when the return from building is relatively low, acting along with the

natural tendency of buildings to decay and population to increase, will result in an increasing demand for the available accommodation and a gradual rise in rents, till the building investment again becomes profitable. On the other hand, if for any reason the return from building becomes relatively high, this is soon corrected by a flow of capital in that direction, resulting in the supply of house and other accommodation outrunning the demand, and the return falling below the normal point, about which there tends to be a continual oscillation. Circumstances favourable to the building investor may put him in possession of a return which, though variable to a certain extent, appears securely fixed considerably above the return from other investments. A person who invested in buying or building houses in certain situations thirty years ago is now reaping considerably more than the return to be obtained from a similar investment now, though probably the excess above the ordinary return is not greater than it would have been had he selected certain other modes of investment. But his advantage is a piece of good fortune, or the result of superior foresight, and in either case it is mere envy to grudge it.

Even if it be true that taxes upon rent, though levied wholly or partly from owners, really diffuse themselves over the whole body of owners and occupiers in proportion to income, and therefore

justly, it is necessary to remember that the statement is true only as an outline is approximately true to a landscape, or as the working of machinery is approximately true to propositions of theoretical dynamics, or as the movements of actual fluids are approximately true to propositions which are rigorously true only of a supposed perfect fluid. It formulates a tendency in the nature of free social life which works itself out quickly or slowly according to circumstances, and perhaps never gets leave to work itself out perfectly. It is a generalisation, the truth of which is quite consistent with the existence of facts which, regarded by themselves, appear to contradict it.

It has been argued that taxes on rent in towns, whether levied from owners or occupiers, sooner or later come to be borne wholly by occupiers, who pay the tax either directly as a tax levied from them, or indirectly in the form of a higher rent where the tax or any part of it is levied from owners; that this is substantially a just incidence; and that while an increase of taxation levied from owners results in an increase of rent and consequently falls upon occupiers, it does not do so directly and immediately, but indirectly, as a consequence of discouraging the supply of accommodation.

If it be now asked whether this view of the incidence of taxation levied in proportion to rent

has the support of the leading authorities in political economy, it must be replied that these authorities are agreed that the burden of such taxation is not necessarily borne by those from whom it is levied, but beyond this point there is no agreement among them on the subject.

I. *Adam Smith*.—Notwithstanding the high and we believe secure place of this writer in the domain of political economy, his treatment of this subject appears unsatisfactory. He distinguishes the rent of a house into two parts, the interest of the capital expended in building the house, which he terms the building rent, and the remainder of the total sum paid as rent, which he terms the ground rent. He then proceeds to trace the operation of a tax in proportion to rent by means of a supposed case. He supposes the imposition of a tax of 4s. in the pound of rent, levied from occupiers. He supposes as an example of the operation of the tax that a person who was formerly able to afford a £60 house has to remove to a £50 house since he has now to pay £10 as tax. But it appears that he can get a better house for £50 just because of the tax.

“For a tax of this kind, by taking away this particular competitor, must diminish the competition for houses of £60 rent, so it must likewise diminish it for those of £50 rent, and in the same manner for those of all other rents except the lowest rent, for which it would for some time increase the competition. But the rents of every class of houses for which the competition was diminished would necessarily be

more or less reduced. As no part of this reduction, however, could for any considerable time at least affect the building rent, the whole of it must necessarily fall upon the ground rent. The final payment of this tax, therefore, would fall partly upon the inhabitant of the house who, in order to pay his share, would be obliged to give up part of his conveniency, and partly upon the owner of the ground who, in order to pay his share, would be obliged to give up part of his revenue." (*Wealth of Nations, Book V., chap. ii. On Taxes on the Rent of Houses.*)

Not only is this a very vague conclusion which has no practical value in the absence of any indication of the circumstances which affect the division of the burden and how they affect it, but the supposed case is so unnatural that it seems doubtful whether conclusions drawn from it are applicable to ordinary cases. Rates do not rise by four shillings in the pound at a leap. They rise by a penny or twopence, and seldom without some real or supposed advantage accruing to occupiers, for which they are more or less willing and able to pay. An increase of 2d. in the pound is ten shillings a year to an occupier whose rent is £60 a year. Even if we suppose that the occupier is living up to his income, will he be at all likely to seek a cheaper house? Why should he not save the ten shillings off some other part of his expenditure? In the supposed case it is assumed that the whole population continue to find accommodation in the locality affected by the tax. If they do, there will be no diminution in the demand for houses,

for the typical man who is forced to leave a £60 house for a £50 house is not "taken away." He is a new competitor for a £50 house, and simply takes the place of some other man who, we must suppose, has been driven to seek a £42 house. The supposed case, if it proves anything, proves that the rate is borne (at first) partly by the occupiers of the cheapest houses, who cannot find cheaper accommodation, and may have to bear a temporary increase of rent as well, and partly by the owners of the dearest houses, which nobody will be able to afford.¹ But it proves nothing, because it is so far removed from reality. Undoubtedly a new tax of four shillings in the pound on rent, payable by tenants in a particular town, without value received, would cause a fall in rents, but the reason is simple. A number of people would very quickly leave the locality affected by the tax, and others would be deterred from entering it. Take an ordinary case, such as an increase of rates from four shillings to four shillings and twopence in the pound, and unless we find, as the actual and normal result of this increase, that a person who pays £72 in rent and taxes will take a smaller house, because he would otherwise have to pay £72 10s.,

¹It seems doubtful, however, if the latter class could properly be said to bear part of the tax, though suffering a certain loss in consequence of it; and it is not clear that to give up part of a conveniency in order to avoid a tax is bearing a share of that tax.

the whole argument presented by Adam Smith breaks down.

John Stuart Mill adopts Adam Smith's analysis of rent into two elements. His account of the operation of a tax upon rent does not differ materially from Adam Smith's, but his conclusion is more definite. He holds that so far as the total rent is composed of "building rent" the tax upon it "must ultimately fall on the consumer, in other words, the occupier"; while so far as it is composed of "ground rent," the tax upon it falls ultimately on the ground landlord. The demonstration of the latter part of this proposition is as follows:—

"Suppose the lowest ground rent to be £10 per acre and the highest £1000, a tax of £1 per acre on ground rents would ultimately raise the former to £11, and the latter consequently to £1001, since the difference of value between the two situations would be exactly what it was before; the annual £1, therefore, would be paid by the occupier. But a tax on ground rent is supposed to be a portion of a house tax, which is not a fixed payment but a percentage on rent. The cheapest site, therefore, being supposed as before to pay £1, the dearest would pay £100, of which only £1 could be thrown upon the occupier, since the rent would still be only raised to £1001. Consequently £99 from the £100 levied from the expensive site would fall upon the ground landlord." (*Political Economy, Book V., chap. iii., sec. 6.*)

Here also the supposed case is too far from reality to afford conclusions which shall be valid in ordinary circumstances. It is supposed that a new tax equal to two shillings in the pound is imposed, and that it is imposed where the ground rent as

before defined ranges from £10 to £1000; and the result obtained is that if the tax be levied from occupiers the occupier of premises with a ground rent of £1000 will obtain a reduction of rent to the extent of £99, because he will have to pay £100 more in taxes. But let us take a more likely supposition, and observe how the theory works out. A small shop in the least favourable situation in which shops are found in the town of Exburgh brings a rent of, say, £10. The rent of exactly similar premises in the best situation in the town would be at the most £60. The £10 paid for the cheap shop may be taken as wholly building rent. If the rates are supposed to be four shillings in the pound payable wholly by the occupier, the £10 tenant will pay £12 in rent and taxes for his shop, and the £60 tenant will pay £72 for his, the difference in value of the two shops being thus £60. Suppose the rates are increased by twopence in the pound, the £10 tenant will have to pay in all £12 1s. 8d., and as the difference in value remains the same, the tenant of the £60 shop will not give more than £72 1s. 8d. But he must pay £12 10s. in rates, consequently he will not pay more than £59 11s. 8d. in rent; that is, he will ask and obtain a reduction of 8s. 4d. in his rent. This may be unassailable as a theoretical conclusion, but it does not happen.

Ricardo.—It is difficult to reconcile fully the statements of Ricardo on this subject. In the

course of three pages the following views are expressed by him:—

“A tax on the rent of houses may either fall on the occupier, on the ground landlord, or on the building landlord. In ordinary cases it may be presumed that the whole tax would be paid both immediately and finally by the occupier.” . . .

“Taxes on houses though laid on the occupier will frequently fall by a diminution of rent on the landlord.” . . .

“The payment of the tax, therefore, would ultimately fall on the occupier and the ground landlord.” (*Principles of Political Economy and Taxation, chap. xiv., sec. 72.*)

The first quotation affords an opportunity of pointing out that in Scotland at least there are not usually three different parties concerned, but only two. The receiver of the ground rent, so far as it is affectable by taxation, is the same person as the receiver of the building rent. The feu-duty is a fixed annual payment not affectable by taxation upon rent, and therefore quite a different thing from “ground rent,” according to Adam Smith’s and Mill’s use of that term; indeed, the “ground rent” and “building rent” of these writers seem to be pure abstractions, not anything exemplified in real life. Of course, an abstraction may be a harmless and even useful thing in its own way, but to mix up actualities with abstractions in argument is apt to lead to false conclusions. The terms *economic rent* and *profit rent* are sometimes used, possibly as less suggestive of realities, but these terms are also somewhat confusing. It

would seem better to say *situation rent* and *erection rent* if the distinction is useful, which, however, seems very doubtful.

The Duke of Argyll boldly drops the distinction of rent into two elements, and appears to assert for rent as a whole the proposition which Mill asserts for ground rent, namely, that rates levied upon it are borne by owners.¹ The Duke is a London leaseholding occupier, and pays all the local rates. But he is satisfied that it is only in appearance that his landlord pays no share.

“What is the test of truth on this subject? The test which I put to myself is this question—If I could get my existing bargain dissolved and if I and my landlord were left free to make a new one, would I or would I not, be willing to give for a new lease the whole sum in name of rent which I now pay separately in the two separate items of rent and rates? If I would be willing . . . in paying rates as a separate item I am merely deducting it from the full letting value which my landlord could get in the market from myself or from somebody else. In compensation for paying the rates I pay so much less rent. It is, therefore, clear and certain that the rates are paid out of rent—that is to say, they are paid out of funds which belong to the ownership, and not to the occupancy.” (*The House of Lords and Betterment, Contemporary Review for April, 1894, p. 494.*)

If London occupiers were henceforth to pay no rates, the Duke might be willing to pay as rent what he now pays in rent and rates; and, supposing the rates were to be paid by owners instead of by occupiers, the new bargain would be exactly the same as the old one in its result on the bank

¹The reference is to the late Duke.

accounts of the parties concerned. But this proves nothing. If it did prove what the Duke says, it would be easy in the same way to prove the contrary. If London rates had been levied upon owners instead of on occupiers, rents would have come to be adjusted to that state of matters. If rates were then suddenly abolished, or levied from occupiers instead of from owners, the Duke's landlord, applying a similar test, would find himself willing to accept as rent the old rent less the amount which he used to pay in rates. He would conclude that in compensation for paying the rates he received so much more rent, and therefore it was clear that rates were paid out of the occupiers' funds and not out of funds which belonged to the ownership.

In the ordinary case the willingness of either party to agree to a renewal of the existing bargain will depend on the rents which are usual at the time, which will depend on the supply of houses, which will depend on whether it pays to build houses, taking cost of ground and all other existing and probable circumstances into account. The Duke's argument involves the proposition that if by some magic there were to be no more rates in London, occupiers would continue to pay, as rent, the amount they now pay in rent and rates. If they did so a huge benefit would immediately accrue to those who had houses to let. Capital would be turned to building houses to such an

extent that the supply would outrun the demand and rents would fall, till after some oscillations, in the course of which fortunes would be lost and won, the normal rate of return on building investments was re-established.

*Mr. Goschen.*¹—Mr. Goschen was chairman of a Select Committee of the House of Commons on Local Taxation which reported in 1870, and in a draft report which he prepared and afterwards published he discusses the incidence of rates. Referring to rates levied wholly from the occupier, he says—

“There can be no doubt whatever that a portion of the rates does ultimately fall upon the owner; what is in dispute is the amount which falls upon the occupier. It is held by some that all rates ultimately fall upon the owner, by others that a large portion is borne in fact as well as in form by the occupier. The point in dispute is the degree to which an increase of rates leads to a diminution of rent; that is to say, the degree to which occupiers are able to throw off upon the owners the increase in the local burdens to which, all rates being charged upon them, they are in the first instance exposed.” (*Reports and Speeches on Local Taxation by G. J. Goschen, M.P., p. 163.*)

The conclusion at which Mr. Goschen arrives is this—

“In the case of short tenancies, in fact whenever re-adjustments of rent take place, any increase of rates is borne sometimes by the leaseholder or owner of the house, sometimes by the occupier, according to the state of supply and demand.” (*Ibid. p. 168.*)

This is true so far as it goes, but it stops short

¹ Afterwards Viscount Goschen.

of the most important point. A deficiency in the supply of accommodation will make it possible for owners to throw off the burden of new rates levied from them by raising rents, and on the other hand an excessive supply will make it possible for occupiers to throw off the burden of new rates levied from them by insisting on a reduction of rent. But in both these cases the deficiency or excess of supply would affect the current rate of rent irrespective of any alteration in taxation, and the addition to the rates might have no other relation to the alteration of rents than the tap given to the weather-glass has to the movement of the index hand. If it is to the state of supply and demand that we must look for the immediate cause of the rise or fall of rents, then the only effect which taxes have upon the current rate of rent (beyond giving rents in certain cases a jog in the direction they are tending) is their indirect effect by way of influencing the state of supply and demand. What is that effect? In a state of society where a large proportion of shops and houses are built as an investment of capital an increase of rates levied upon proprietors must have an appreciable effect in diminishing the profits of building investments and consequently checking supply; that is, it produces the circumstances under which the burden of rates is transferred to occupiers—transferred not explicitly and deliberately, but by quiet modification of the current price of

accommodation. On the other hand, an increase of rates levied from occupiers is spread over the whole community. It is not a diminution of profits, it is only an increase in the expense of living. It does not appreciably reduce the demand for accommodation, and it has no tendency to increase the supply; consequently rent is not affected, and the burden remains with the occupier.

Mr. B. F. C. Costelloe, Chairman of the Local Government Committee of the London County Council in 1893, in a pamphlet entitled "The Incidence of Taxation" (Ward & Foxlow, London, 1893), supports the view that the urban occupier has to bear the entire burden of increased taxation without relief. His words are, "The economic theory put forward does not work. In fact, it is practically certain that in London as regards new increments of local charge the ratepayer *does* pay and *does not* receive a rebate in any way from rent" (p. 10).

But while Mr. Costelloe holds that, in London, rates levied from the occupier are borne wholly by the occupier, he does not admit that rates levied from the owner also come to be borne by the occupier. He instances the Property and Income Tax as proving that there is no transference—

"I have never heard that any one was hardy enough to say that the fluctuations of the Landlords' Property Tax, which have at times been great, have ever affected rents in the slightest degree. The truth is that the imposition of a new

direct charge upon owners does not, either in practice or in economics, make it any easier for him to get a higher rent from his tenants. That the State imposes a new tax upon him is no more relevant to the outcome of his bargains with his tenants than if he had lost money at Monte Carlo. There is nothing in the existence of an owners' rate which either increases the value of the property to the occupier or the practical capacity of the tenant to pay." (*p. 15.*)

To which it may be said that money judiciously expended might conceivably increase these; but apart from that, the imposition of a new direct charge upon owners would have the effect of increasing rent by discouraging the application of capital to building enterprise. If we suppose that before the imposition of the tax building enterprise was giving an adequate return compared with other investments, it would not be giving an adequate return after the imposition, and therefore building enterprise would flag till occupiers, without knowing exactly how it came about, had accepted the burden in the form of increased rent, and the return to capital was again sufficient to secure a supply of new buildings. As to what is here called the Landlords' Property Tax, the writer's mistake seems to lie in failing to recognise that the tax in question is not a special tax resting only on owners of rateable property, but a part of a national income tax which affects every class of investment, and therefore does not reduce the return from building investments alone, but from all investments indifferently.

Mr. Costelloe perceives that if his view of the incidence of rates is correct it involves the necessity of deciding what part of local public expenditure ought to fall upon owners and what part upon occupiers. He says it would carry him beyond his purpose to attempt any exact appraisal, but he mentions police, education, drainage, sanitation, streets, fire brigades, open spaces, cross-river communication, arterial thoroughfares, housing expenses and lighting as expenses of which "some share and a large share" is proper to be charged upon owners, because these all help the owner and improve rents. Some examples of useful public expenditure which did not help the owner would have been welcome. We venture to say that none could be produced. The problem, then, is to apportion between owners as a class and occupiers as a class the cost of advantages which in every conceivable instance both share and without which neither would thrive, or perhaps exist. This is not a difficult problem: it is an insoluble problem. We might as well attempt to fix in what proportion a man's flesh ought to contribute to his activities compared with his bones. But we are not required to solve the problem of a fair apportionment of rates between owner and occupier. Let us make any convenient apportionment of the rates, or even put them wholly on owners or wholly on occupiers, and, if we will only adhere for a reasonable time

to the course we adopt, the nature of things will regulate the burden for us while we sleep and rise, night and day.

If a tax on rent, however levied, soon comes to be borne by occupiers, and is practically an income tax which no one escapes, then the levying of such taxes half from owner and half from occupier, while it may have some advantages, tends to obscure the rationale of the system of pound rates, for it suggests that those two classes *ought to* share the burden of taxation equally between them, and that in the case of taxes so levied they *do* share it equally, neither of which propositions is true. That the owners' part of the tax does not long continue to bear upon owners but passes over to occupiers is beginning to be perceived. The notion remains, that the owner, as owner, ought to bear the half. Consequently occupiers have the feeling that somehow they are outwitted by owners, and this feeling, stimulated by many who regard it as salutary, or at least useful, finds expression in various projects for drawing from owners, as owners, a contribution towards public expenditure in excess of their mere proportion as possessors of a certain revenue. So far as these projects are simply applications of a general theory that it is practicable to make the poor richer by making the rich poorer we can only say, *Alas Sisyphus!* But so far as they are intended to adjust the burden of taxation in closer

proportion to the ability to sustain it, we suggest to those who are at work upon them this preliminary question, Whether the division of the burden in certain proportions between the owners of lands and heritages and those who are not owners of lands and heritages has any basis at all in equity? It is possible that the division originated, not in considerations of equity, but in considerations of convenience and economy.

Indeed the whole system of taxation by pound rates in proportion to rent probably took its rise not in any anxious and perplexed search for equity, but in an instinctive, or at least deeply rooted, persuasion that, civil society being what it is, to make taxation simple, steady, and certain is to make it equitable.

That instinctive persuasion has disappeared, or is fast disappearing, and yet perhaps on it alone can any permanent political success be reared or maintained. It would be an instance of what we are accustomed to call the irony of circumstances if just as it disappeared the possibility of a reasoned justification of it began to be perceived.

APPENDIX I.

MINUTES OF THE CONVENTION OF ROYAL, PARLIAMENTARY, AND POLICE BURGHS OF SCOTLAND, ON THE SUBJECT OF THE TAXATION OF LAND VALUES.

1.

EDINBURGH, *22nd February, 1899.*

At a Meeting of the ANNUAL COMMITTEE of the
CONVENTION—

Present—The Commissioner for St. Andrews in the
Chair; the Senior and Junior Commissioners for
Edinburgh; the Commissioner and Assessor for
Kinghorn; the Commissioners for Linlithgow
and North Berwick; and the Assessors for
Cupar, Dunfermline, Queensferry, Haddington,
Pittenweem, Culross, Dornoch, Cromarty,
Stornoway, and Wishaw.

The following Sub-Committee was appointed under
remit as to Taxation of Land Values for Local Pur-

poses (Act 32 of last Convention¹), viz.:—The Senior and Junior Commissioners for Edinburgh; and the Assessors for Cullen, Pittenweem, and Dornoch—the Junior Commissioner for Edinburgh to be Convener.

2.

EDINBURGH, *1st March, 1899.*

At a Meeting of SUB-COMMITTEE of the ANNUAL COMMITTEE ON TAXATION of LAND VALUES for LOCAL PURPOSES—

Present—The Junior Commissioner for Edinburgh in the Chair; the Senior Commissioner for Edinburgh; and the Assessor for Pittenweem.

The Sub-Committee, having considered the subject, were of opinion that landowners within Burghs should bear their fair share of Local Taxation. Further, they recognised that, in giving effect to this principle, grave difficulties would arise in dealing with existing feu-duties. They therefore resolved to recommend that existing feu-duties should, in the meantime, be exempted from the operation of any proposed legislation on the subject.

¹ The remit was “to consider the desirableness of supporting the principle of taxation for local purposes on the basis of land values, and to report.”

3.

EDINBURGH, 22nd March, 1899.

At a Meeting of the ANNUAL COMMITTEE of the CONVENTION—

Present—The Commissioner for Selkirk in the Chair; the Junior Commissioner for Edinburgh; the Commissioners for Linlithgow, Dysart, Lanark, and Musselburgh; and the Assessors for Dunfermline, Rothesay, Pittenweem, Dornoch, and Inverbervie.

There was read Report by Sub-Committee on Taxation of Land Values for Local Purposes, being Minute of Meeting of the Sub-Committee on that subject of date 1st inst. The Junior Commissioner for Edinburgh, seconded by the Commissioner for Linlithgow, moved the approval of that Report. The Assessor for Rothesay, seconded by the Assessor for Dunfermline,¹ moved, as an Amendment, the disapproval of the Report.² After discussion a division was taken—the question being “Approve

¹ The Assessor for Dunfermline said that he opposed the approval because in his opinion the Report did not go far enough.

² The Assessor for Rothesay first moved the adoption of a different Report, on the lines of the dissent subjoined; but the Chairman doubted the competency of this course, and ruled that a motion to disapprove the Report would be in order.

or Disapprove?" — when 6 Burghs voted "Approve," 4 voted "Disapprove," and 1 declined to vote. The Motion was therefore carried, and the Committee accordingly approved of the Report, and directed it to be submitted to next Convention—the Assessor for Rothesay dissenting for Reasons which he gave in. The Committee received the Reasons, and on the Motion of the Assessor for Dunfermline, it was remitted to the Sub-Committee, with powers, to answer the same, the Answers to be printed and circulated to the Members of Convention prior to the General Meeting, at which they were ordered to be brought up along with the Report and Reasons. In the division, the Burghs of Edinburgh, Linlithgow, Dysart, Musselburgh, Pittenweem, and Inverbervie voted to "Approve" the Burghs of Selkirk, Lanark, Dunfermline, and Rothesay to "Disapprove"; while the Burgh of Dornoch declined to vote. The following are the Reasons given in by the Assessor for Rothesay, viz. :—

REASONS OF DISSENT FROM THE REPORT ON THE TAXATION OF LAND VALUES FOR LOCAL PURPOSES, adopted 22nd March, 1899.

The subscriber dissents for the following reasons :—

I. Nobody disputes the soundness of the opinion that landowners should bear their fair share of

Local Taxation. The questions upon which difference of opinion exists are these :—

1. How is their fair share to be determined?
2. What mode of taxation will best secure that they bear their fair share?

II. The subscriber believes that the true answer to the first question is, that the fair share of taxation for all to bear, proprietors of land included, is a share in proportion to free income; and

III. That the true answer to the second question is, that the present system of taxation for local purposes—the system of taxation in proportion to the rent of lands and heritages within the area assessed—best secures that each person, proprietors of land included, bears his fair share. This arises from the following considerations :—

1. That the dwelling of each person is, almost invariably, of a rent or annual value proportionate to his income.
2. That the rates levied on the rent of business premises are paid by those who use the commodities there supplied in paying the market price or hire of these commodities.
3. That the rates levied on the rent of dwellings are paid by those who use the dwellings, either directly as rates levied from them, or indirectly (where the rates are levied

wholly or partly from proprietors) in paying the market hire or rent of the premises.

IV. That the Taxation of Land Values is a term used for the imposition on all owners of land within a certain area of a special tax, to be calculated in proportion to the estimated selling value of their land, on the supposition that the erections which may be on it at the time are not on it, the erections on the surrounding lands being supposed to remain. It is proposed to apply the Taxation of Land Values to Burghs only; and the new tax is to be either in addition to, or wholly or partly in substitution for, the present Local Taxation.

V. That the proposal ought to receive uncompromising resistance for the following reasons:—

1. That the proposed tax would be arbitrary in amount.
2. That it would be difficult and expensive to levy.
3. That it would be unequal in its incidence—persons equally able to pay being taxed in very different proportions.
4. That it would be disastrous in its indirect results on the supply of house and business accommodation.

A. D. MACBETH,
Assessor for Rothesay.

4.

IN THE GENERAL CONVENTION, HELD AT EDINBURGH,
THE 4TH DAY OF APRIL, 1899 YEARS—

Inter alia,—

16. There was presented Report by the Annual Committee on Taxation of Land Values for Local Purposes, which Report being contained in the Minutes of Meeting of the Sub-Committee on that subject of date 1st March last, and of the Annual Committee of 22nd ult., was held as read.

On the motion of the Junior Commissioner for Edinburgh, the Convention, without approving of the Report, continued the Remit on that subject contained in Act 32 of Convention 1897.

5.

EDINBURGH, 19th April, 1899.

At a Meeting of the ANNUAL COMMITTEE of the CONVENTION—

Present—The Commissioner for Linlithgow in the Chair; the Junior Commissioner for Edinburgh; the Commissioners for Kinghorn and Dumbar-ton; and the Assessors for Haddington, Elgin, New Galloway, Queensferry, Hawick, Castle-Douglas, Newburgh, and Partick.

The Committee appointed the following to be a Sub-Committee under Remit as to Taxation of Land Values for Local Purposes (Act 32 of Convention 1897 and Act 16 of Convention 1899), viz. :—The Senior and Junior Commissioners for Edinburgh, the Commissioner for Linlithgow, and the Assessors for Haddington, Pittenweem, Tain, Rothesay,¹ Whithorn, Dornoch, Hawick, and Newburgh—the Junior Commissioner for Edinburgh to be Convener.

6.

EDINBURGH, *29th November, 1899.*

At a Meeting of SUB-COMMITTEE of the ANNUAL COMMITTEE ON TAXATION of LAND VALUES—

Present—The Senior Commissioner for Edinburgh in the Chair ; the Commissioner for Linlithgow ; and the Assessors for Rothesay, Dornoch, Hawick, and Newburgh.

The Sub-Committee, after some discussion of the subject-matter of the remit, delayed further consideration thereof meantime.

7.

EDINBURGH, *28th February, 1900.*

At a Meeting of SUB-COMMITTEE of the ANNUAL COMMITTEE ON TAXATION of LAND VALUES—

Present—The Junior Commissioner for Edinburgh,

¹ Then and subsequently Bailie William M'Intosh, afterwards Provost and Commissioner to the Convention of 1900.

Convener, in the Chair; the Senior Commissioner for Edinburgh; the Commissioner for Linlithgow; and the Assessors for Rothesay, Whithorn, Dornoch, and Newburgh.

The Sub-Committee, after further discussion of the subject of the remit, again delayed further consideration thereof meantime.

8.

EDINBURGH, *14th March, 1900.*

At a Meeting of SUB-COMMITTEE of the ANNUAL COMMITTEE ON TAXATION OF LAND VALUES—

Present—The Junior Commissioner for Edinburgh, Convener, in the Chair; the Senior Commissioner for Edinburgh; the Commissioner for Linlithgow; and the Assessors for Rothesay, Dornoch, and Newburgh.

The Convener submitted proposed Answers, prepared on his instructions, to the Reasons of Dissent given in by the Assessor for Rothesay, from the Sub-Committee's Report adopted by the Annual Committee on 22nd March, 1899, and engrossed in the Minute of Meeting of the Sub-Committee of that date; which proposed Answers, having been previously printed and circulated among the Sub-Com-

mittee, were held as read, and are of the following tenor:—

“ ANSWER I.—A fair share for landowners to pay must be a very different share per £1 from that paid by private property.

“ 1. By applying the following principles, viz.:—

“ The Taxation of Land Values is based upon an underlying truth, which must be realised before its fairness and ultimate logical conclusion can be accepted. It is not taxation, but restoration to the community of that which is the inalienable property of the community, and which was entrusted to persons, not as their private property, but, by means of its usufruct, to serve society.

“ Land Values grow by the exertions, chemical and mechanical discoveries, and capital expenditure of the community, and so by ordinary rights of property belong to the community that created them, just as private property owes its right to private creation.

“ But as a complication has arisen through neglecting true legal and moral principles, the community must get out of it by gradual resumption in accordance with civilised methods.

“ Existing feu-duties have no more right to be exempted than any other portion of land value. The feu value was created by the community, and is more fairly taxable than the income left by a provident father to his daughter, or the tea or tobacco the wealth creators use.

“ 2. The appropriation to the services of the community of the Land Values by the process of taxation suggested in the Bill before Parliament, and by extending the process as suggested by evidence given before the Royal Commission on the subject.

“ ANSWER II.—The dissenter’s position is utterly unjust, in respect that it makes no distinction between the income a man earns by his own labour and capital, and that which he procures by speculating in ‘*natural opportunities*,’ *i.e.*, by taking advantage of the improving values created by the labour and capital of the community.

“ ANSWER III.—The present system of taxation permits a man to confine a city or community within narrow limits till the death-rate or public loss by inconvenience of space compels society to pay him, say £10,000, for an acre upon which he kept a wood yard and paid rates upon a rental of £20 per annum.

“ 1. The reasons given for income being regarded as a proper basis of taxation are disputed. It is the best of the existing methods in principle, and even in practice, but earned income and ‘ unearned ’ stand in two different relations to society. The income earned by society (unearned increment) is first to be restored.

“ 2. The proposition contained under this head is quite true ; and the people who use the commodities are tired paying, whilst the Nation’s income, Land Values, is appropriated to the use of private individuals.

“ 3. This reason is true, but irrelevant.

“ ANSWER IV.—This reason is pretty fairly stated, but it is the ‘ Land Value ’ which must be regarded, apart from erections on the land or not on it.

“ ANSWER V.—‘ Uncompromising resistance ’ is to be expected from all in possession, but the people have no right to live in slums in order that land shall pay £50 to £5000 per acre per annum out of the wages of labour and profit of capital to persons of culture, &c., but of no economic value in wealth production.

“ 1. This statement is unfounded.

“ 2. On the contrary, the tax would be easy to levy—the value being visible.

- “ 3. ‘ Ability to pay ’ is not the best basis of taxation ; ‘ benefits received ’ being the more correct principle.
- “ 4. The tax would certainly be disastrous to the monopolist. The wood yards, &c., would come into the market at once when the Assessor put a valuation of £1000 or £500 per annum upon subjects rated at £20 per annum. 2s. in the £1 upon the true value would compel the land to be used—not held longer for a famine price. Working men would then be able to live fifty-seven years instead of twenty-seven, their present average, and goods would no longer be so heavily handicapped by ground rents. The nation could hold its own in foreign markets if the entire Imperial Taxes and Local Rates were taken out of the £300,000,000 per annum paid by the people for the right to live and create wealth in their native land.”

The Senior Commissioner for Edinburgh, seconded by the Assessor for Newburgh, moved that the Sub-Committee decline to adopt the foregoing Answers.

The Assessor for Rothesay, seconded by the Commissioner for Linlithgow, moved, as an Amendment:—“ That the Sub-Committee, having considered the Reasons of Dissent from their previous recommendation, and the proposed Answers

“ thereto submitted by the Convener, beg to report
 “ that the question is controversial to such an
 “ extent that they ask leave to withdraw from their
 “ former recommendation, and be discharged.”

After discussion, a division was taken—the question being Motion or Amendment?—when 3 Burghs voted for the motion, 2 for the Amendment, and 1 declined to vote. The Motion was therefore carried, and the Sub-Committee accordingly declined to adopt the Answers proposed, the Junior Commissioner for Edinburgh dissenting. In the division, the Burghs of Edinburgh, Dornoch, and Newburgh voted for the Motion; the Burghs of Linlithgow and Rothesay voted for the Amendment; while Edinburgh declined to give its second vote.

9.

EDINBURGH, 21st March, 1900.

At a Meeting of the ANNUAL COMMITTEE of the CONVENTION—

Present—The Assessor for Glasgow in the Chair; the Senior Commissioner and Senior Assessor for Edinburgh; the Commissioners for Linlithgow, North Berwick, Leith, Musselburgh, Girvan, and Kinning Park; and the Assessors for Haddington, Kinghorn, Irvine, Elgin, Rothesay, Cullen, Dornoch, Kirkwall, Hawick, and Newburgh.

There was read Report by Sub-Committee on

Taxation of Land Values for Local Purposes, being Minute of Meeting of the Sub-Committee on that subject of date 14th inst. The Assessor for Rothesay, seconded by the Commissioner for Linlithgow, proposed the following Motion, viz.:—“That the Annual Committee having considered the Reasons of Dissent and proposed Answers thereto, beg to report that the question is controversial to such an extent that they ask leave to withdraw from their former recommendation and be discharged.” The Committee adopted that Motion, and resolved accordingly.

10.

IN THE GENERAL CONVENTION OF THE ROYAL, PARLIAMENTARY, AND POLICE BURGHS OF SCOTLAND, HELD AT EDINBURGH, THE 3RD DAY OF APRIL, 1900—¹

24. The Convention having undertaken consideration of the matters delayed from last Sederunt, there was presented Report by the Annual Committee on Taxation of Land Values for Local Purposes, which Report, being contained in the Minutes of Meeting of the Sub-Committee on that subject of date 14th March, and of the Annual Committee of 21st March last, was held as read.

On the Motion of the Commissioner for Rothesay,

¹ The only Scottish towns of any importance unrepresented at this Convention were Aberdeen and Forfar.

the Convention adopted the following Motion, and resolved in terms thereof, viz. :—“ *The Convention*
“ *having considered the Minutes of the Annual Com-*
“ *mittee under this remit, disapprove of the Taxa-*
“ *tion of Land Values as defined in Head IV. of*
“ *the Reasons of Dissent submitted to the Committee*
“ *on 22nd March, 1899, and discharge the remit.*”

APPENDIX II.

TAX GRANTED BY THE PARLIAMENT TO
KING ROBERT THE BRUCE FOR HIS
LIFE, REFERRED TO ON PAGE 38.

[*The original document is in the Register House, Edinburgh. Its text is to be found in Thomson's Acts of the Parliament of Scotland, Vol. I., p. 123 (where there is an engraved fac-simile), and in Lord Kames's Historical Law Tracts, Appendix V. There is also a fac-simile, text, and translation in "The National Manuscripts of Scotland," Vol. II.*]

THIS is a copy of the indenture willingly agreed to and confirmed between the Lord Robert, by the grace of God, illustrious King of Scots, and the Earls, Barons, Free-tenants,¹ Communities of Burghs, and whole community of the entire kingdom, reciprocally sealed with the great seal of the Kingdom and the seals of the said Magnates and

¹ Or free "holders" of land "held" under the immediate guarantee of the sovereign: the freedom standing not in absence of obligation but in the obligation of the holder having bounds. For observations on the ambiguity of words connected with land tenure see Prof. F. W. Maitland's *Township and Borough*, pp. 3, 29, 49.

Communities in these words: The present indenture witnesseth that on the 15th day of July, in the year from the incarnation of our Lord 1326, the most serene prince lord Robert, by the grace of God, illustrious King of Scots, holding his full Parliament at Cambuskenneth, and the earls, barons, burgesses, and all other free tenants of land of the kingdom being there convened, it was set forth by the said lord King that the lands and revenues which used to pertain to his crown¹ had been so diminished by different grants and transfers made in connection with war that he had not an income suitable to his station without intolerable burdening and oppressing of the poorer classes of his people,² wherefore he earnestly desired from them that since he had suffered many inconveniences³ in person and in property for the sake of recovering and securing the liberty of them all, it would please them out of gratitude they owed, to find some manner of means by which with less burden to his people he might

¹ The Government revenue was then chiefly the revenue of the King as a great landlord owning Crown lands in much the same sense as his barons owned their lands. See Preface to Thomson's Acts, page 5: Cosmo Innes, Sketches of Early Scotch History, page 121.

² This temporary oppression was perhaps unavoidable, and was probably foreseen by the King. Was what he aimed at worth this and whatever else it might cost? The King decided that it was.

³ *Incommoda*. The King must have dictated this word.

sustain his position as was becoming; which earls, barons, burgesses, and free tenants, all and every one, those within as well as those without the boundaries of lands pertaining to the lord King, of whatsoever condition and holding indirectly or directly from whatsoever other lords within the kingdom, considering and acknowledging the King's motives to be sincere, and how many other advantages had in his time accrued to them through him, and how just and reasonable his request is, after general and careful discussion of the matter unanimously, gratefully, and willingly granted and gave to their lord the King above-mentioned, annually at the terms of Martinmas and Whitsunday, proportionally for the whole period of the said King's life, the tenth penny of all their rents and revenues as well from the lands of their lordships and wards as from other lands whatsoever whether within or without the bounds of liberties,¹ and within or without the bounds of burghs, according to the old valuation of lands and rents faithfully made by the royal officers in the times of the illustrious lord Alexander of worthy memory, D.G. King of Scots last deceased; making allowance only in respect of destruction through war, in which case there shall be made a deduction from the tenth

¹ The word liberties is used for immunities, and also for the local territories within which immunities existed, by grant or by custom.

penny above granted corresponding to the diminution of rent from the above cause as the same shall be ascertained in an enquiry faithfully made by the sheriff of the place;¹ so that the whole of the pence may be brought together for the use and service of the said lord King without any remission in favour of anyone; and should any grant or remission of the said pence be made before that they are paid in full at the King's Exchequer, the present grant shall be null and void of all force and strength; and since certain magnates of the kingdom claim liberties under which the officers of the King may be precluded from exercising their functions within their territories, and the payment to be made to the lord King may perhaps be impeded, all and sundry who claim such liberties undertake to the lord King to make full payment by their own officers to the King's officers of their own and their tenants' portions, at the appointed terms, and if they fail to do so the King's sheriffs, each in his sherrifdom, may distrain the holdings within

¹ An old valuation may be a fair enough basis for *apportioning* a tax. Had it not been that some places had suffered more than others in the course of the long War of Independence the parties concerned, who were practically dividing the tax among themselves (with relief against their sub-vassals and dependents), would have been quite satisfied with the old proportions. See Mr. Thomson's account of early Scotch taxation in the case of *Cranston v. Gibson*, 1818, Faculty Decisions, V. 513.

such liberties, by the royal authority, for the payment to be made; and the lord King, seriously considering and appreciating the gratitude and good will of his people, has graciously granted that after the festival of St. Martin next to come—that is to say, the first term for making this payment—he shall not impose the old (regal) dues, nor exact *prisæ* or *cariagia*,¹ except when travelling or making progresses through his kingdom in the manner of his predecessor, King Alexander before named; for which *prisæ* and *cariagia* let full payment be made on the nail, so that the whole purveyance for the King, and the carriage of the same, shall be done without *prisæ*, and so that the officers of the King shall pay cash down, according to the common market, for everything in the way of such purveyance: Further it is compacted and willingly agreed between the lord King and the community of his kingdom that upon the death of the King the foresaid grant of the tenth penny shall immediately cease, except that it shall be paid in full from the term preceding the death of the lord

¹The Crown had anciently the right of buying up provisions and other necessaries for the use of the royal household at an appraised valuation, in preference to all others, and even without the consent of the owner; and also the right of forcibly impressing the carriages and horses of the subject to do service in the conveyance of timber, baggage, and the like, however inconvenient to the proprietor, upon paying him a settled price.

King: and that neither by the foregoing, nor by anything done after the completion of this grant, shall any prejudice of legal rights arise either to the heirs of the said King or to the community of the kingdom, but everything shall return to, and remain in, the same position as at the date of the present grant: In testimony of all which there is affixed to one portion of this indenture, to remain in possession of the said earls, barons, burgesses, and free tenants resident, the common seal of the kingdom; and to the other portion, to remain in possession of the lord King, are jointly appended the seals of the earls, barons, and other greater free tenants, along with the seals of the burghs of the kingdom in their own name and that of the community. Given the day, year, and place foresaid.

And this Copy, to remain in possession of the magnates and communities foresaid, and their successors, is sealed with the seal of the kingdom in testimony and for the information of posterity: Given at Edinburgh, in the Parliament of the lord King held there the second Sunday in Lent, with continuation of days following, in the year of our Lord 1327.¹

¹ The King died 7th June, 1329.

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